



*An economic argument
for stronger freedom of
information laws in
Ireland*

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Preface

The reform and renewal of Ireland's democratic institutions, including how public policy is formed, is essential for our future. TASC is dedicated to equality, including the political equality that lies at the heart of democracy. As such, we are producing a series of discussion papers on the topic of open policy-making, as a contribution to the national debate on democratic reform.

*TASC has a track-record of putting forward evidence-based arguments to strengthen Ireland's democracy. In 2003, TASC established an independent Democracy Commission which reported in 2005 (*Engaging Citizens: the Case for Democratic Renewal in Ireland*). In 2007, TASC published the report of a comprehensive audit of democracy in Ireland (*Power to the People? Assessing Democracy in Ireland*), using an international method that has been implemented in at least eighteen other countries around the world, including the UK. TASC has also undertaken analysis of state agencies (*Outsourcing Government*), local government (*Governing Below the Centre*) and public perspectives on democracy.*

As a continuation of this work, TASC has identified that public access to information about policy-making is essential to strengthening Ireland's democracy. Documents and records held by government and public bodies should be routinely made available, so that the public (including elected representatives, journalists and civil society organisations) can access the day-to-day 'thinking process' of the government. Open policy-making is essential so that assumptions and proposals are fully scrutinised, to ensure that public policy is efficient, effective and in the public interest.

The TASC discussion paper series on open policy-making will include, among other topics, analysis of the links between democracy and public access to information, an evaluation of Ireland's freedom of information (FOI) law, economic arguments for stronger FOI and international developments in providing more open government.

The discussion papers are designed to invite suggestions and criticisms from readers, as part of the process of TASC developing its recommendations for reform of this area, which will be published in late 2010/early 2011.

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Introduction

1. There is a range of arguments for increasing public access to official information, including the argument that it is a basic democratic entitlement and the argument that access to information will promote better quality public administration.³ However, this paper specifically develops the economic rationale for expanding and strengthening Ireland's freedom of information (FOI) law. The first aim of the paper is to demonstrate that the fees regime does not lead to any cost recovery and is in fact likely to add to total administrative costs. The second aim of this paper is to comprehensively defeat the argument – which is aired from time to time – that Ireland's freedom of information law is 'expensive' or a luxury than could be dispensed with. This paper will illustrate how FOI has in all probability saved significant sums of money for the public. The third aim of the paper is to show that FOI is essential if Irish enterprises are to exploit the business potential of reusing public data, a market which has an estimated value of €83-€399 million per annum.
2. In Ireland, FOI generally refers to the legislation that gives members of the public the right to access certain official documents, files, records, etc from public bodies that have been included under the Freedom of Information Act 1997 and Freedom of Information Amendment Act 2003. Over 600 bodies have been listed to date, although there are notable exceptions, such as the Gardaí, Central Bank, VECs, NTMA and NAMA.

¹ Thanks to the anonymous reviewer for comments and suggestions. Thanks also to Sinéad Pentony, Tom McDonnell, Alex Klemm and Daragh McCarthy for comments.

² Readers are invited to send comments, criticisms and suggestions to the author at noconnor@tascnet.ie

³ The link between democracy and the public right to access official information is explored in another TASC discussion paper, released in July 2010.

3. The 2009 Council of Europe Convention on Access to Documents gives a good summary of the rationale for FOI: “Transparency of public authorities is a key feature of good governance and an indicator of whether or not a society is genuinely democratic and pluralist, opposed to all forms of corruption, capable of criticising those who govern it, and open to enlightened participation of citizens in matters of public interest. The right of access to official documents is also essential to the self-development of people and to the exercise of fundamental human rights. It also strengthens public authorities’ legitimacy in the eyes of the public, and its confidence in them.”⁴

The cost of FOI

4. While supporting FOI in principle, the Taoiseach, Brian Cowen, claimed that FOI is “an expensive and time consuming aspect of Government work”.⁵
5. At the time of introducing the fees regime, the average cost of processing a request was estimated at €425. The then Taoiseach, Bertie Ahern, estimated that it could have increased to as much as €600 by 2008.⁶ However, in May 2008, Ciarán Connolly, Secretary General for Public Service Management and Development in the Department of Finance, estimated that the cost of processing an FOI request was about €485.⁷ Speaking at the same event, the Minister for Finance, Brian Lenihan, explained that the €485 estimate referred to the original estimate of €425 plus inflation.⁸
6. The figure of €425 is an average based on an exercise conducted by the Department of Finance in 2003, which calculated the time (and hourly pay) required for civil servants of different ranks to examine files and decide on what can be released.⁹ There are plausible reasons to imagine that the cost could have reduced or increased over time. For example, as processing some types of requests becomes more routine, responding to them – including removing confidential information – should be quicker, and therefore cheaper. Also, the 2003 exercise averaged the cost of processing personal and non-personal requests at a time

⁴ Council of Europe (2009) Convention on Access to Documents, Explanatory Report, II.1

⁵ Dáil Éireann, Questions, 18 November 2009

⁶ Dáil Éireann, 20 February 2008

⁷ Connolly, Ciarán (15 May 2008) ‘Freedom of Information and Better Government – Assessing the First Ten Years’. Address to FOI 10th Anniversary Conference, p. 14

⁸ Lenihan, Brian (15 May 2008) Speech to FOI 10th Anniversary Conference, p. 5

⁹ FOI Central Policy Unit, Department of Finance

when there was a higher proportion of non-personal requests, which cost more to process. Conversely, if less controversial information is now made publicly available outside of a formal FOI request, it is possible that the remaining requests could require more time to adjudicate, and hence they could incur higher administrative costs. However, in the absence of a study that elaborates the administrative costs in such a way that would permit a more accurate estimate to be made, it seems reasonable to take the official figures at face value.

7. Taking €425 as the average cost in 2003 (when that estimate was made), let us further assume that €425 represents a reasonable average cost over the 11 years of FOI's operation (1998-2009) for which statistics are available. We know from the annual reports of the Office of the Information Commissioner how many FOI requests were made across the public service. In the twelve-year period 1998-2009, a total of 156,685 requests were made. Putting these figures together, one can estimate that the total cost of administering FOI requests over twelve years was €66.6 million ($156,685 \times €425$).¹⁰ This is a tiny fraction of overall government spending during this period. The small scale of spending on FOI is shown below in relation to 2009.
8. The cost of FOI in 2009 can also be estimated. A total of 14,290 requests were made in 2009. Assuming the average cost was €485 per request (i.e. €425 plus inflation since 2003), the operating cost of FOI in 2009 was €6.9 million ($14,290 \times €485$).¹¹
9. To put the above figure into context, the state spent nearly €56 billion in current expenditure in 2009.¹² Hence, the €6.9 million estimated cost of FOI represents one euro and twenty cent for every 10,000 euro of overall current expenditure (i.e. 0.012 per cent). This does not seem to be an exorbitant price to pay for stronger democratic oversight of public spending.

¹⁰ The Annual Reports of the Office of the Information Commissioner are available online at www.oic.gov.ie/en/Publications/AnnualReports

¹¹ This estimate rises to €8.6 million, if the ex-Taoiseach's estimate cost of €600 per request is used.

¹² Current expenditure is day-to-day spending, like salary costs. This does not include one-off or 'capital' expenditure, such as investment in infrastructure, which was €7.3 billion in 2009. Source: Revised Estimates for Public Services 2010.

The introduction of fees

10. A fees regime was introduced as part of the Freedom of Information (Amendment) Act in 2003. Various bodies have argued against the fees regime as a block on public access to information, including the Information Commissioner,¹³ and the OECD.¹⁴
11. The two arguments in favour of fees can be termed ‘abuse deterrence’ and ‘cost recovery’. In 2008, the Minister for Finance, Brian Lenihan, explained the rationale for the fees regime was to deter “abuse” of the Act and “to reflect to some degree the work involved in processing a request”.¹⁵ Both of these reasons have also been given in the latest annual report on FOI by the Minister for State at the Department of Finance, Dr Martin Mansergh, as follows: “Some requests can be very detailed and time-consuming for public servants to respond to. It is appropriate, outside of certain exceptions, such as personal information, that there be some charge to reflect this and to encourage purposeful use of the provision.”¹⁶
12. The Minister for Finance described what he regarded as abuse of the Act as follows: “there was a certain level of abuse of the Act – for example, one requester who made 466 requests, 101 applications for internal review and 35 appeals to the Information Commissioner – which would have cost well over €100,000 to process. There were also so called ‘trawling’ requests and dealing with these was not considered to be a reasonable diversion of staff and resources from providing services to the public.”¹⁷ However, this argument is irrational. Firstly, it is arguing from one specific case to make a general point, which is unscientific as one case cannot describe or represent the common features of the 156,000+ requests made by 2009. Secondly, and crucially, Section 10 of the Freedom of Information Act 1997 has always permitted the refusal of requests on administrative grounds, including (c) where “granting the request would... cause a substantial and unreasonable interference with or disruption of the other work of the public body concerned,” and (e) “the request is... frivolous or vexatious”. The onus is clearly on public bodies to reject inappropriate requests.

¹³ Office of the Information Commissioner (June 2004) *An investigation by the Information Commissioner into the effects of the Amendment Act and the introduction of fees on access requests by members of the public.*

¹⁴ OECD (2008) *Ireland – Towards an Integrated Public Service*, p. 220

¹⁵ Speech to FOI 10th Anniversary Conference, 15 May 2008, p. 6

¹⁶ Eleventh Report by the Minister for Finance on Freedom of Information, p. 2

¹⁷ Speech to FOI 10th Anniversary Conference, 15 May 2008, pp. 5-6

13. The cost recovery argument is also unfounded. The amount recovered is little more than nominal compared to the operating costs of FOI. And it is highly likely that, for most public bodies collecting fees for FOI requests, the cost of administering the fee regime is more than the sum of money collected. The calculations for this are given below.
14. Fees are only charged for making non-personal requests and generally cost €15 to make a formal FOI request, €75 to appeal the initial decision with the public body in question and €150 to bring a final appeal to the Office of the Information Commissioner. Some discounts apply, such as for people with medical cards. Personal requests do not incur a fee. Certain administrative charges can be levied on requesters, including €20.95 per hour spent searching and retrieving files, 4 cent per sheet of photocopying, 51 cent for a floppy disk, €10.16 for a CD-ROM and €6.35 for a radiograph.¹⁸
15. The net total raised through fees from 2004 to 2009 was just over €525,000. In 2009, fees raised just over €115,000, which represented 1.6 per cent of the estimated total cost of €6.9 million. As such, fees clearly add little to overall cost recovery.

The administrative cost of fees

16. It seems likely that collecting fees places an administrative burden on the large number of public bodies who only deal with small numbers of FOI requests. The Annual Report of the Information Commissioner lists the number of FOI requests received by public bodies in 2009.¹⁹ A large majority of them received 20 or fewer non-personal requests in the year. Yet, in each case, they have to process the associated fees and to perform associated administrative tasks, including accounting for the fees and dispensing refunds in some cases. 20 requests at €15 equals €300 total, which seems unlikely to cover the administrative costs for one of these bodies in handling the fees. Many bodies receive five non-personal requests or fewer in the year, which bring in €75 or less in fees. It is highly probable that the fees regime is counter-productive and costs more money to operate than it generates in most cases.
17. Only ten public bodies received more than 100 non-personal requests: eight government departments, one local authority and the HSE. In total, these ten bodies received 1,599 non-

¹⁸ FOI Central Policy Unit (1 May 1998) Notice 11 'Charges'.

¹⁹ Office of the Information Commissioner (2010) *Annual Report 2009*, pp. 46-51

personal requests (c. 160 each on average), which would have brought in less than €24,000 in basic fees between them (1,599 x €15 = €23,985). The cost of processing those fees does not appear worthwhile.

18. All fifteen government departments combined received a total of 1,613 non-personal FOI requests in 2009. The rate of non-personal FOI requests is low compared with a likely volume of well over 25,000 parliamentary questions.²⁰ In this context, it seems unwarranted to charge fees for a relatively small volume of FOI requests from the public.
19. The claim that fees dissuade a larger volume of requests or so-called 'trawling' requests was addressed above. The FOI law gives clear grounds for public bodies to reject such requests. Also, public bodies are encouraged to discuss requests to try to accommodate the requester without undue disturbance to their work. No evidence has been presented to show how FOI causes an undue interference with the work of public bodies. On the contrary, the existence of FOI should cause public bodies to organise their records more efficiently.

Fees as a barrier to ordinary people

20. Despite the claim by the Minister for Finance that serious requesters would not be deterred by fees,²¹ there is evidence that fees present a tangible barrier to ordinary people making non-personal requests.
21. For someone who wishes to appeal an initial refusal under FOI, fees increase significantly. Internal appeals must be made before going to the Office of the Information Commissioner. As such, the total cost from making an initial FOI request to appealing to the Commissioner is €240.²²
22. Non-personal requests fell by more than half in 2004 once fees were introduced from 7,216 non-personal requests in 2003, to 3,191 non-personal requests in 2004. In 2009, the number of non-personal requests (4,799) was still only two-thirds of the level it was in 2003 before fees were introduced.

²⁰ Muiris MacCarthaigh (2005) *Accountability in Irish Parliamentary Politics*, p. 121, shows the expanding number of parliamentary questions, with 27,568 permitted in 2004.

²¹ Speech to FOI 10th Anniversary Conference, 15 May 2008, p. 6

²² €15 (initial request) + €75 (internal appeal) + €150 (appeal to the Information Commissioner). There are fee reductions for people with medical cards.

23. The Information Commissioner's annual reports give figures on different types of requester (business, journalists, etc) but they do not say whether requests were personal or non-personal. However, it can be estimated that between a third and a half of all non-personal requests are made by ordinary citizens.²³ The estimated number of requests by ordinary citizens fell from around 2,750 in 2003 to around 1,250 once fees were introduced in 2004. In 2009, the estimated number of requests by ordinary citizens was around 1,750 – which was 1,000 fewer than in 2003. These are not journalists or businesses making trawling requests, and it seems highly unlikely that hundreds of members of the public were making frivolous requests. Therefore, in all probability, the fees regime is blocking ordinary citizens from making non-personal FOI requests about the operations of public bodies.
24. In this context, it is worth noting the 2009 Council of Europe Convention on Access to Official Documents. This is a binding international treaty on a minimal set of guidelines similar to FOI to be enforced in each member state. Notably, one of its provisions is that "Inspection of official documents on the premises of a public authority shall be free of charge" although "A fee may be charged to the applicant for a copy of the official document, which should be reasonable and not exceed the actual costs of reproduction and delivery of the document".²⁴ Ireland has not signed this treaty. If it did so, it would have to end the current fees regime for requests and appeals.

The monetary benefits of FOI

25. The argument that FOI is expensive is disingenuous. It seeks to reduce public administration to a simple bookkeeping exercise, of balancing direct annual costs against revenue. In this simplistic account, the administrative cost of FOI is greater than the cost recovered through the fees regime. However, any serious cost-benefit analysis of FOI must include the estimated savings that are generated through preventing errors and wrong-doing. Therefore, we must include cost savings to the state which were largely brought about through information revealed by FOI requests.

²³ The rationale is that the number of requests by staff, clients and 'others' exceeds the total number of personal and 'mixed' requests. Hence, the surplus of these requests is likely to be non-personal. This is a minimum estimate, as it is also assumed that all requests from business, journalists and the Oireachtas are non-personal. The annual reports of the Information Commissioner provide the relevant figures on an annual basis.

²⁴ Council of Europe (2009) Convention on Access to Official Documents, Section 7

26. At one extreme, the tribunals and claims against the state have shown that prevention is not just better than cure; it is also much cheaper than the costs of investigations and compensation. The Comptroller and Auditor General estimated that the cost of three tribunals set up since 1990 are likely to cost the taxpayer in the region of €336-€366 million by the time they conclude their work.²⁵ Even divided by the number of years the tribunals have been in operation, these costs represent multiples of the annual cost of FOI and yet only apply to the specific topics under investigation.
27. Of course, Ireland's FOI regime did not exist or was only being set up when the above tribunals were established. In many respects the tribunals represented a short-term 'patch' on a broken system of accountability, whereas FOI was meant to establish a more long-term improvement in transparent government through public access to information about decision-making. Although FOI did not prevent nearly a third of a billion euro being spent on the above tribunals, it may do so in future cases. If increased public access to information can prevent even one tribunal occurring, this will represent a likely saving of tens of millions of euro.
28. Another major offset against the cost of FOI is the prevention or early detection of major and minor mistakes by public bodies. Greater openness allows for greater scrutiny of government expenditure and hence is likely to decrease inefficient resource allocation over time and prevent more wasteful projects from occurring. It is logically impossible to calculate the cost of a mistake that was prevented. However, the examples below illustrate some (and only some) of the saving to the taxpayer through Freedom of Information.
29. Sports Campus Ireland is an example of a project where FOI requests played a role in bringing its costs to public attention, which led ultimately, to the halting of a costly plan to build a national stadium. It is reasonable to suggest that the taxpayer benefitted significantly from FOI in this case, and the savings are substantial. The spiralling cost estimate for the national stadium and other sports facilities had reached over €700 million and "we know all of this, and much more, thanks to the Department [of Finance] supplying two boxes of

²⁵ Comptroller and Auditor General (December 2008) Tribunals of Inquiry: Special Report 63 re Mahon, Morris and Moriarty tribunals, p. 11

documents in response to a request in January 2001 from the Irish Times under the Freedom of Information Act.”²⁶

30. An investigation into expense claims at the national employment agency FÁS, which led to the high-profile resignation of the Director General, Rody Molloy, as well as further investigations into waste of public money at FÁS, was made possible due to FOI. The monetary benefit of closing down the abuse of expenses shows the tangible benefit of FOI. The widely voiced public anger at what occurred in FÁS is also likely to have encouraged other state bodies to tighten up their controls over expenditure.
31. The purchase and storage of electronic voting machines cost the taxpayer over €51 million,²⁷ despite only being used in three constituencies for a trial run. This is not money that FOI saved, as it was spent. But it can be argued that the continued probing by journalists and activists into these machines (which was facilitated greatly by FOI requests) forced the government to, belatedly, abandon a costly project and save some associated storage costs. For example, Joe McCarthy, a computer expert, obtained files through FOI that permitted him to expose flaws in the operation of the machines and a lack of testing of them. Joe McCarthy also reports repeated attempts by the Department to avoid releasing files under FOI and had spend at least €2,882 in fees to access information.²⁸ He also made a critical submission to the Commission on Electronic Voting.²⁹
32. The media regularly carries stories about Oireachtas members' expense claims. However, it was only in 1999, after a ruling by the Information Commissioner, that complete records of these were released. Now this information is published routinely, although unlike other parliaments (such as Scotland) the information is not published online. Nevertheless, expense claims have reduced as a result of increasing openness.³⁰

²⁶ Frank McDonald, Irish Times, 12 March 2003 cited in Office of the Information Commissioner, May 2008, p. 6

²⁷ Department of the Environment, Heritage and Local Government (23 April 2009) 'Minister Gormley announces Government decision to end electronic voting and counting project'

²⁸ McGaley, Margaret and Joe McCarthy (no date) *Transparency and e-Voting: Democratic vs. commercial interests*. Department of Computer Science, NUI Maynooth. Section 3.2

²⁹ <http://www.cev.ie/htm/submissions/index.htm> (Submissions not available online on 23 July 2010) However, the submission is also available here <http://www.iol.ie/~aecolley/ictc/Joe-CEV.pdf>

³⁰ Office of the Information Commissioner (May 2008). *Freedom of Information – The First Decade*, pp. 18-19

33. FOI has led to greater public scrutiny of the use of public money. For example, the decision was made by the Information Commissioner to disclose the recipients of EU farm payments. In this case, the Irish decision led to other EU states taking a similar position and, in 2008, the European Commission took the decision to publish all the information on payments across the EU. As these payments make up a major part of EU spending, it is likely that increased scrutiny through FOI has helped to control the level of payments.³¹
34. There are many other cases where FOI has had a direct impact, involving the scrutiny of expenditure and/or the reduction in costs. For example, public procurement and financial settlements with ex-employees of public bodies have come under FOI.³²
35. When FOI enables people to access official information, it can enable them to act as efficiency auditors in relation to public policy decisions, especially large, costly ones. The annual cost of FOI pales into relative insignificance in comparison. The case of Sports Campus Ireland illustrates that extravagant or poorly audited decisions by government can cost hundreds of millions of euro. This in turn emphasises the importance of FOI for all major state expenditure. In the current context, it is highly questionable that the Central Bank, Financial Regulator, NTMA and NAMA should all remain outside of the scope of FOI, as they are responsible for managing, dispensing or advising government on tens of billions of public money involved in the bank capitalisation and NAMA's purchase of bad debt.

The commercial use of FOI

36. There is a further economic argument in favour of FOI, which is that FOI enables access to data as a resource for business activity. This argument underpins an EU Directive, which is aimed at releasing the commercial potential of non-personal data held by public bodies.³³ The logic is that public bodies often compile lists and databases for one specialised purpose, but businesses may be able to make use of that data for diverse commercial offerings. Obviously, privacy and data protection safeguards are required when the data includes personal or confidential information. In economic terms, the extra uses to which the same data can be put are 'positive externalities'. In 2005, the directive was brought into force in

³¹ Office of the Information Commissioner (May 2008). *Freedom of Information – The First Decade*, pp. 19-20

³² Office of the Information Commissioner (May 2008). *Freedom of Information – The First Decade*, pp. 20-21

³³ EU Directive 2003/98/EC (on the reuse of public sector information)

Ireland and there is a public sector information website explaining the regulations in more detail.³⁴

37. Businesses have accounted for around six per cent of FOI requests since fees were introduced. Prior to the introduction of fees, they accounted for nearly ten per cent of all requests. More significantly, businesses account for up to a fifth of all non-personal requests (assuming most business requests are non-personal in nature).
38. The types of data gathered by public bodies are extremely varied, including economic data, transport data, demographic data, scientific data, agricultural data, etc. Hence, reuse of public data could vary greatly, depending on the business in question. The European Commission offers the following illustrative examples:³⁵

Public Sector Information	Commercial Use
Meteorological information	Weather services for mobile phones; Data to inform crop insurance
Laws and regulations	Added value by compiling laws in one place with links to relevant cases
Digital maps	Freight management service; System facilitating disaster management
Grant information	Overview of European, national and local grants as part of a service facilitating company location decisions
Tourist information	Mobile tourist service with description of main monuments, hotel information etc.
Business statistics	Business consultancy service based on statistical analysis
Administrative information	Overview of administrative formalities as part of a service for transport companies
Images of artefacts in museums	Online course in history of art
Audio-visual material from public archives	Documentaries
Traffic data	Navigation systems helping you to avoid traffic congestion

³⁴ www.psi.gov.ie

³⁵ European Commission, Directorate General for the Information Society Unit Information market – E4 (May 2004) *Exploiting the Potential of Europe's Public Sector Information*, p. 3

The variety of possible uses is enormous. The assumption of the EU directive is that this potential will only be realised when businesses are permitted to access and reuse public data.

39. In 2006, the value of the EU public sector information market was estimated at between €10 billion and €48 billion.³⁶ There was no specific estimate given for the Irish segment of that market, but one can be estimated on the basis of Ireland's population as a proportion of the EU. The EU population in 2006 was nearly 500 million people, hence Ireland's 2006 population of 4.1 million should account for between €83 and €399 million of the EU's €10 to €48 billion public sector information market.
40. Recent studies of open government have shown that allowing access to public sector information leads to economic growth. "The consensus of recent research is that charging marginal cost of dissemination for public sector information (PSI) will lead to optimal economic growth in society and will far outweigh the immediate perceived benefits of aggressive cost recovery."³⁷ Easy access to data reduces the cost of providing services, which increases competitiveness. Access to information also aids the spread of ideas, which is one of the fundamental bases of long-term economic development.
41. The assumption of the EU directive is that data is made available at below cost in order to stimulate economic activity. The cost is already offset by the initial purpose of the data gathering.
42. Crucially, the directive relies on pre-existing access legislation (such as FOI laws). The economic potential of the directive's implementation is limited by the extent to which the public can easily access public documents and data. The directive highlights the need for high quality record-keeping and data management by public bodies, and the need for public data to be made available in easy-to-use machine-readable formats (e.g. spreadsheets or generic databases, not paper-based or in files that require major reformatting before the data can be analysed).

³⁶ Ahern 2007

³⁷ Burkert and Weiss, 2004

43. A lack of good data management is a major barrier to the economic potential of the directive. If Irish public service data is not well managed and readily available in easily useable electronic formats in the first instance, or if access laws are too restrictive (e.g. through fees and charges), then the consequence is likely to be that entrepreneurs will be deterred from developing the commercial potential of public sector data in Ireland.

Conclusion

44. The evidence suggests that the fees regime for FOI requests costs more to administer than it aids to cost recovery. In addition, it is likely to pose a real barrier to ordinary citizens seeking non-personal information.
45. The evidence presented above suggests that the overall administrative costs of operating Ireland's FOI regime (estimated at c. €6.9 million in 2009) are far outweighed by the material benefits in terms of money saved. Preventing the need for a single tribunal of inquiry would save tens of millions of euro, and the case studies of Sports Campus Ireland, FÁS, etc. show tangible benefit to the taxpayer, worth at least tens of millions of euro.
46. The likely benefits from commercial reuse of public information are difficult to quantify; however, Ireland's proportional share of the EU's market is between €83 and €399 million. Even if a fraction of this was generated, it would easily outweigh the costs of the FOI regime.
47. Of course, freedom of information is not morally justified by saving money or generating economic activity. It is justified independently by the strong ethical and democratic arguments that recognise the value of open government. Nevertheless, on any kind of reasonable estimate, freedom of information is also well worth the money.

REFERENCES

Ahern, Michael TD, Minister for Innovation Policy (25th October 2007). Address to Conference on Re-use of Public Sector Information, Dublin Castle.

Burkert, Herbert and Peter N. Weiss 'Towards a Blueprint for a Policy on Public Sector Information' in Archholzer, Georg and Herbert Burkert (2004, editors) *Public Sector Information in the Digital Age – Between Markets, Public Management and Citizens' Rights*. Cheltenham: Edward Elgar. pp. 329-336.

Comptroller and Auditor General (December 2008) *Tribunals of Inquiry*. Special Report 63. <http://audgen.gov.ie/documents/vfmreports/63_Tribunals_of_Inquiry.pdf>

Connolly, Ciarán (15 May 2008) 'Freedom of Information and Better Government – Assessing the First Ten Years'. Address to FOI 10th Anniversary Conference. <<http://www.foi.gov.ie/publications>>

Council of Europe Convention on Access to Documents 2009
<<http://conventions.coe.int/Treaty/en/treaties/html/205.htm>>

Council of Europe Convention on Access to Documents 2009 Explanatory Report
<<http://conventions.coe.int/Treaty/EN/Reports/Html/205.htm>>

Dáil Éireann. Questions: Freedom of Information. Volume 647, 20 February 2008.
<<http://historical-debates.oireachtas.ie>>

Department of the Environment, Heritage and Local Government (23 April 2009) 'Minister Gormley announces Government decision to end electronic voting and counting project'
<<http://www.environ.ie/en/LocalGovernment/Voting/News/MainBody,20056,en.htm>>

European Commission, Directorate General for the Information Society Unit Information market – E4 (May 2004) *Exploiting the Potential of Europe's Public Sector Information*.
<http://ec.europa.eu/information_society/policy/psi/docs/pdfs/brochure/psi_brochure_en.pdf>

EU Directive 2003/98/EC (on the reuse of public sector information)
<http://ec.europa.eu/information_society/policy/psi/docs/pdfs/directive/psi_directive_en.pdf>

FOI Central Policy Unit (1 May 1998) Notice 11: Charges. <<http://www.foi.gov.ie/cpu-notice/notice.2006-07-27.8700572673>>

Freedom of Information (Amendment) Act 2003
<<http://www.irishstatutebook.ie/2003/en/act/pub/0009/index.html>>

Freedom of Information Act 1997
<<http://www.irishstatutebook.ie/1997/en/act/pub/0013/index.html>>

High-Point Rendel (November 2001) *Stadium and Sports Campus Ireland – Independent Overview, Final Report* <<http://www.irishtimes.com/newspaper/special/2002/stadiumireland/Rendel.pdf>>

Lenihan, Brian (15 May 2008) Speech to FOI 10th Anniversary Conference.

<<http://www.foi.gov.ie/publications>>

McGaley, Margaret and Joe McCarthy () *Transparency and e-Voting: Democratic vs. commercial interests*. Department of Computer Science, NUI Maynooth.

<<http://www.cs.nuim.ie/~mmcgaley/Download/Transparency.doc>>

Muiris MacCarthaigh (2005) *Accountability in Irish Parliamentary Politics*. IPA.

OECD (2008) *Ireland – Towards an Integrated Public Service*.

<http://www.onegov.ie/eng/Publications/Ireland_-_Towards_an_Integrated_Public_Service.pdf>

Office of the Information Commissioner (2009). *Annual Report 2008*.

<<http://www.oic.gov.ie/en/Publications/AnnualReports/AnnualReport2008/File,9998,en.pdf>>

Office of the Information Commissioner (2010). *Annual Report 2009*.

<<http://www.oic.gov.ie/en/Publications/AnnualReports/AnnualReport2009/File,12066,en.pdf>>

Office of the Information Commissioner (May 2008). *Freedom of Information – The First Decade*.

<<http://www.oic.gov.ie/en/Publications/SpecialReports/10thAnniversaryPublication-FreedomofInformationTheFirstDecade/File,8397,en.pdf>>

Office of the Information Commissioner (June 2004) *An investigation by the Information Commissioner into the effects of the Amendment Act and the introduction of fees on access requests by members of the public*.

<<http://www.oic.gov.ie/en/Publications/SpecialReports/InvestigationsComplianceReportsSection36/File,571,en.pdf>>