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Organising transparency in Stockholm, London and Amsterdam

A. Drahmman and L.F.D. Honée¹

Abstract

This article compares the regulation and organisation of information management and the access to public information in three European capital cities: Amsterdam (the Netherlands), Stockholm (Sweden) and London (United Kingdom). For each city, the article describes which information falls within the scope of the right to access public information under national law and how documents are archived and information requests are managed in practice on the local level. The article aims to explore the interaction between the national freedom of information acts on the one hand, and the local administration's organisation of information management and access to public information on the other.

1 Introduction

On 15 January 2021, the Dutch government stepped down due to the *Kinderopvangtoeslagenaffaire* (childcare benefits scandal). Since 2010, the Dutch Tax and Customs Administration had wrongly, and on a discriminatory basis, accused over 26,000 parents of fraudulently collecting childcare benefits. Parents who could not account for small monetary amounts of around €100 were faced with reclamations of tens of thousands of euros, leaving them in debt and in some cases even losing custody of their children. The report of the parliamentary interrogation committee spoke of an 'unprecedented injustice'.² One of the most prominent reasons that this went unnoticed by the Dutch parliament was a lack of transparency and inadequate information management. Entire parental files have been unlawfully destroyed, internal memoranda about the scandal were nowhere to be found and members of parliament were actively obstructed during the process of uncovering the scandal. This scandal resulted in political momentum to implement a new act on transparency: the Open Government Act (*Wet open overheid*, hereafter: OGA). Despite the introduction of this new act on 1 May 2022, only 17% of information requests filed with Dutch ministries were processed within the statutory term in 2023.³ This was the main reason to make this comparison between three European cities, find out whether there are any visible differences and assess whether those differences are rooted in legislation, information management or both.

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² Parlementaire ondervragingscommissie Kinderopvangtoeslag, *Ongekend onrecht* 2020.

³ Instituut Maatschappelijke Innovatie, Open State Foundation and University of Amsterdam, *Blaadjes op het spoor. Analyse afhandeling Woo-verzoeken 2023*, February 2024; <https://openstate.eu/nl/2024/02/afhandeling-informatieverzoeken-wet-open-overheid-door-ministeries-verder-vertraagd/>.

2 Research design

This article seeks to compare the regulation and organisation of information management and transparency in three European capital cities: Amsterdam (the Netherlands), Stockholm (Sweden) and London (United Kingdom).⁴ These cities must operate within the legal framework governing national transparency and have developed their own policies and processes for this purpose. The aim of this article is therefore to explore the interaction between the legislation and the administration's system for ensuring information management and transparency.

When comparing the transparency laws of European Member States, various classifications can be used. Dragos et al. use a classification based on how long Member States have had transparency regulations in place.⁵ This classification is based on the presumption that it takes time for transparency legislation to become part of the administrative culture. A distinction can then be made between the Scandinavian countries (oldest tradition), Western Europe and Central and Eastern Europe – where regulations date from after the Fall of Communism – and finally the new regulations in the United Kingdom and Germany. Kranenborg and Voermans use a different classification based on legal tradition.⁶ The first tradition is the Anglo-American tradition based on the idea that government is a necessary evil and poses a constant threat to citizens' freedom. Due to this distrust, public sector legislation contains strict rules for the government. The second tradition is the continental tradition whereby the government is considered a trustworthy public authority. Publicity laws reflect this implicit trust in the government. The last tradition is the Nordic model, where the government and the citizen are considered partners. The decision to compare Stockholm, Amsterdam and London reflects this classification and as such provides a variety of perspectives on transparency.

Most comparative law research on transparency focuses on substantive national law.⁷ This research also looks at information management in practice as there is a connection between information management and transparency legislation.⁸ The sheer amount of information held and used by governments has skyrocketed as a result of the shift towards e-government services and digital work processes. The Information Age offers greater openness and democratic participation but also comes with serious challenges to government efforts to ensure transparency with regard to government information.⁹

This research considers both the national law and lower-level regulation and policies of each of the three cities. Focusing on these cities has enabled us to gain a deeper understanding of how transparency legislation, information management regulations and transparency organisation relate

⁴ We specifically focus on the local governments that govern these cities named: gemeente Amsterdam, Stockholms stad and the Greater London Authority (City Hall). These differ in size, but they are relevantly comparable as they are the local government which govern most of the area which is described as respectively Amsterdam, Stockholm and London. The City of London, as well as the boroughs fall outside the scope of this research.

⁵ DC Dragos, P Kovac and AT Marseille (eds), *The Laws of Transparency in Action* (Palgrave Macmillan 2019) 2.

⁶ Kranenborg and Voermans, *Access to Information in the European Union*, Europa Law Publishing 2005, p. 25-26.

⁷ Such as Dragos et al.

⁸ E. Shepherd, A. Stevenson & A. Flinn, 'Freedom of Information and Records Management in Local Government: Help or Hindrance?' *Information Polity* 2011, vol. 16(2), p. 111-121.

⁹ Anahí Casadesús de Mingo, Agustí Cerrillo-i-Martínez, 'Improving records management to promote transparency and prevent corruption', *International Journal of Information Management* 2018, Vol. 38(1), p. 256-261.

to each other. This is vital in order to explain the differences in performance between the different countries.

This contribution first of all discusses the legal framework and organisation of internal information management and transparency in each city (Sections 3 to 5). For each city, we first look at how documents are archived and then at how those documents are disclosed. Subsequently, a number of overarching findings will be presented (Section 6).

3 Stockholm

3.1 General introduction

Sweden was the first country to implement transparency laws.¹⁰ Since 1766, access to official documents has been guaranteed by the Constitution in the Freedom of the Press Statute (*Tryckfrihetsförordning*).¹¹ The *Tryckfrihetsförordning* instructs parliament to further define the right to access public information through the Public Access to Information and Secrecy Act (*Offentlighets och Sekretesslag*, hereafter: 'PAISA'). Sweden has a long tradition of transparency, which is regarded as part of the culture.¹² Protecting the right to access public information even formed part of Sweden's EU accession process. Upon joining the EU, Sweden has stated that their access to government information law is in line with EU law, and it has implemented the GDPR with exception to access to official documents.¹³ The Swedish Personal Data Act (*personuppgiftslagen*) even states that in the event of a contradiction between the Personal Data Act and the PAISA, the PAISA takes precedence.¹⁴ The culture of transparency is also part of the educational programme: it is not uncommon that high school students in Stockholm have to request official documents from the government as part of the curriculum.

3.2 Information management

The right to access public information in Sweden is limited to the right to access official documents. No other information that is held by authorities is classed as public information. The definition of an official document is set out in the *Tryckfrihetsförordning*,¹⁵ which specifies that citizens have the right to access '*allmänna handlingar*' (*official documents*). A document is considered official if it is held by a public authority and it has been received or drawn up.¹⁶ Information must refer to a public matter, which therefore means that private communication on work devices is excluded and work-related communication on private devices is included.¹⁷ A document is deemed to be drawn up when one of three conditions is met. Firstly, when the document has been distributed outside of the organisation.¹⁸ If the document has not been distributed, it may still be drawn up. A distinction is made between documents that relate to matters that are finalised and documents that relate to matters that are not yet finalised. A document assumes the status of an official document when the matter has been finalised by the public authority or when the form of the document itself has been

¹⁰ S. Lamble, 'Freedom of information, a Finnish clergyman's gift to democracy', *Freedom of Information Review* 2002, vol. 97, p. 2-8.

¹¹ P. Hal, 'The Swedish Administrative Model', in J. Pierre (ed.), *The Oxford Handbook of Swedish Politics*, online edn, Oxford Academic 2016, p. 306.

¹² J. Nordin, "The Swedish Freedom of Print Act of 1776, Background and Significance", *Journal of International Media & Entertainment Law* 2018 vol. 7(2) p. 137-144.

¹³ Art. 7 Personuppgiftslagen (Personal Data Act).

¹⁴ Section 7 Personal Data Act.

¹⁵ Chapter 2, Section 1 *Tryckfrihetsförordning*.

¹⁶ Section 4 PAISA.

¹⁷ RÅ 1984 Bb 86 (Decision of the highest administrative court of Sweden).

¹⁸ Chapter 2, Section 10 *Tryckfrihetsförordning*.

finalised.¹⁹ A memorandum, defined as a ‘memory aid’, which does not add any new information to the case, does not qualify as an official document automatically. It only becomes an official document once it has been approved for filing and registration.²⁰ Some documents – such as calendars, logs and registers – are updated continuously. These documents can also qualify as official documents.²¹

In conclusion, this definition means two things. Firstly, all incoming and outgoing messages, whether they are sent by post, email or WhatsApp, are considered to be official documents, while internal correspondence may become official information once it has been filed.²² Secondly, internal working material is not accessible while the matter is being handled, and drafts and other preliminary information is usually excluded from the definition if a finalised document exists.²³

The archiving rules are decided by the relevant archive authority, which in the case of Stockholm is the city’s archives.²⁴ The PAISA states that authorities must factor the principle of public access to information into the management of official documents.²⁵ The PAISA makes reference to the Archive Act and vice versa, underlining Sweden’s integrated approach to organising internal information management and transparency.²⁶

In Sweden, the document register plays a key role in allowing access to public information as it gives an overview of the official documents that are registered by the public authority during a particular period. The public authorities in Sweden have to register all documents as soon as they reach ‘official’ status, except for documents that can be stored in an orderly manner and easily retrieved, such as personnel files.²⁷ Documents that contain classified information must always be registered.²⁸ The metadata of the document is also included in the document register and includes the subject, date of registration, document number and a brief description.²⁹

In Stockholm, the Archive Manager coordinates information management tasks by designing policy and deciding which document management systems are to be used.³⁰ The Archive Manager holds a senior position and has access to adequate budgetary resources allowing the Stockholm City Archives to expeditiously implement new policy.³¹ Officials receive basic training on document registration and the PAISA at the start of employment.³² These officials must be able to identify classified information, register classified information immediately and add a marker in the register.³³

¹⁹ Chapter 2, Section 10 *Tryckfrihetsförordning*; Regeringsrätten 08-06-2004, Målnummer 8324-03.

²⁰ Chapter 2, Section 12 *Tryckfrihetsförordning* and Section 3 *Arkivregler för Stockholms stad*.

²¹ Chapter 2, Section 10 *Tryckfrihetsförordning*.

²² P. Jonason, ‘The Swedish Legal Framework on the Right’ in: HJ Blanke & R. Perlingeiro, *The Right of Access to Public Information, An International Comparative Legal Survey*, Springer-Verlag GmbH Germany, part of Springer Nature 2018, p. 243.

²³ P. Jonason, ‘The Swedish Legal Framework on the Right’ in: HJ Blanke & R. Perlingeiro, *The Right of Access to Public Information, An International Comparative Legal Survey*, Springer-Verlag GmbH Germany, part of Springer Nature 2018, p. 244.

²⁴ E-offentlighetskommittén, *Säkerhetskopiars rättsliga status*, Statens Offentliga Utredningar 2009:5, p. 44-45.

²⁵ Section 1 Chapter 4 PAISA.

²⁶ Section 4 Chapter 4 PAISA.

²⁷ Section 1 Chapter 5 PAISA.

²⁸ Section 1 Chapter 5 PAISA.

²⁹ Section 2 Chapter 5 PAISA.

³⁰ Stadsarkivet Stockholm, *Att hantera digital information i Stockholms stad: Att hantera digital information i Stockholms stad* 2020, p. 6.

³¹ Riktlinjer till arkivregler för Stockholms stad KFS 2015:27, p. 5.

³² Stadsarkivet Stockholm, *inspektioner 2019 – årsrapport* 2020.

³³ Section 5 Chapter 5 PAISA.

The marker merely serves as an indication of secret information and does not absolve the public authority from making a decision once the document has been requested. However, it does facilitate the right to access public information by streamlining the final decision.

The Stockholm City Archives enforces proper information management in the city. It has the authority to draft rules and standards for handling information and to monitor compliance by inspecting Stockholm's public authorities.³⁴ The archive's reports contain instructions in the event of non-compliance. The Stockholm City Archives has no enforcement powers, but this does not appear problematic as a 2019 report found that most public authorities have rules for assigning responsibility for information management and most officials have proper knowledge about the obligations regarding and the general handling of official documents was found to be good to very good.³⁵

A major challenge for public authorities is the transition to digital information management.³⁶ Inspections conducted by the Stockholm City Archives prior to 2019 indicated shortcomings in digital information preservation.³⁷ That number dropped to 50% in 2019, stating the recent efforts to improve digital information management such as the introduction of the e-archives and guidance for handling digital information. Furthermore, the Stockholm City Archives has pioneered programmes that streamline the city's information management and reduce the number of digital document management systems used by public authorities.

3.3 Access to documents

There are few procedural barriers to submitting a request under Swedish law. Requests can be filed without charge, anonymously, without specifying a reason, without mention of the law and in verbal or written form.³⁸ Requests must be sufficiently precise so the public authority is able to identify the document or the limited group of documents without much effort.³⁹ Public authorities are obliged to assist requesters in delimiting or specifying their requests by using their document registers, since extracts from a register can assist requesters in specifying their request.⁴⁰ There is a limit to public authorities' obligation to assist, however, as they are not obliged to conduct extensive archival research if citizens are only able to give general descriptions.⁴¹ Whether a request requires extensive archival inquiries depends on the request itself and the functionalities of the document register that the public authority holds. To give an example, the request for all medical dossiers linked to cases of the insertion of a specific type of intrauterine device (IUD) over the last year was rejected as it was not possible for the public authority to search the register for the specific type of IUD in question. That would have required reading through all patient dossiers to find the relevant documents, which

³⁴ Section 16 Archive Act 1990:782. All rules and standards can be found at <https://stadsarkivet.stockholm/stadens-arkiv-och-informationshantering/>

³⁵ Stadsarkivet Stockholm, *inspektioner 2019 – årsrapport 2020*, p. 15-16.

³⁶ K. Anderson, G. Samuelsson & M. Morner, 'Benchmarking information management practice and competence in Swedish organizations', *Conference: European Conference on Information Management and Evaluation 2011*, vol. 5.

³⁷ Stadsarkivet Stockholm, *inspektioner 2019 – årsrapport 2020*, p. 14-15.

³⁸ Section 18 Chapter 2 Freedom of the Press Act; Ministry of Justice (Government offices of Sweden), *Public access to information and secrecy, The legislation in brief 2020*, p. 15.

³⁹ RÅ 1979 Ab 6; RÅ 1991 ref. 50; Hovrätten för Västra Sverige [2007] Ö1733-07.

⁴⁰ HFD 2018: 8 (decision by the highest administrative court of Sweden).

⁴¹ Kamrarrätten Göteborg, [2017] 183-17; in this case, the estimate was that one public servant would have to work for one year in order to respond to the request.

according to the court would involve extensive archival inquiries.⁴² On the same grounds, the request for all criminal convictions for murder in a particular year was also rejected. Again, the register did not allow a search for particular convictions, which meant that 823 cases would have to be searched. This would take more than two full working days and therefore involve extensive archival inquiries.⁴³ If the category of documents requested can be easily identified using the register, there is no limit to the number of documents that an individual can request. The request cannot be rejected as applying the secrecy clauses would require a lot of time and capacity.⁴⁴ For example, one request regarding more than 8,000 documents was accepted on the condition that they could be easily located in the register.⁴⁵

A request for official documents must be examined promptly and responded to within a reasonable period of time.⁴⁶ A public authority must prioritise official document requests over other tasks⁴⁷ and respond the same day if there are no special circumstances.⁴⁸ In this context, a request that was submitted on 21 November was considered to have been unreasonably delayed on 25 November.⁴⁹ However, a couple of days' delay is justified if the authority has to decide whether information can be made public or qualifies as secret information. A longer period of time can be justified for voluminous or extraordinarily complex requests, although public authorities should publish the requested information gradually, in multiple instalments.⁵⁰ It is not uncommon that voluminous requests take several weeks to weeks to examine. Research indicates that Swedish authorities are quick, with 70% of local governments responding to small requests either the same day or the next day.⁵¹

The aforementioned Parliamentary Ombudsman is, alongside the administrative courts, tasked with enforcing and monitoring compliance with the PAISA. The Ombudsman is generally more accessible than the courts, and while it lacks any enforcement mechanisms, is seen as having the competent authority. Even the administrative courts regularly refer to decisions of the Parliamentary Ombudsman.

Sweden does not have exceptions to the right to information, but instead classifies information as secret. This is not just a linguistic difference, since the classification refers to both access to public information and to officials' freedom of speech. Officials have a right to speak about any issues concerning the administration, except issues that are classified as secret.⁵² Similarly, all official documents are public, except when the information is governed by a secrecy clause. The Tryckfrihetsförordning stipulates seven interests that the law can protect, such as the security of the kingdom and the interest of preventing crime. Furthermore, any limitation of the right to access

⁴² Kamrarrätten i v Göteborg 2011, Mål nr 5147-11 (Administrative appeal court). Full-text searches through documents are not required under Swedish law.

⁴³ Hovrätten för Västra Sverige 2007-03-26, Ö1733-07 (Administrative appeal court).

⁴⁴ RÅ 1979 Ab 6 (decision by the highest administrative court of Sweden).

⁴⁵ NJA 1998 pp. 559 (decision by the Supreme Court of Sweden).

⁴⁶ Section 12 Chapter 2 Freedom of the Press Act.

⁴⁷ JO dnr. 3725-2015; JO dnr 5158-2015.

⁴⁸ JO Dnr 4209-2009 (decision by the Parliamentary Ombudsman).

⁴⁹ JO 2005/06 p. 448 (decision by the Parliamentary Ombudsman).

⁵⁰ JO dnr. 4773-2003; JO dnr 3843-2009, JO dnr 2859-2011 and JO dnr 1039-2017 (decisions by the Parliamentary Ombudsman).

⁵¹ J. Eriksson, *På väg mot en digital offentlighetsprincip*, slutrapport från projektet Undervaka 2017, p. 10.

⁵² Ministry of Justice (Government offices of Sweden), *Public access to information and secrecy, The legislation in brief* 2020, p. 3.

official documents must be carefully specified in the PAISA.⁵³ The PAISA therefore contains only specific secrecy clauses and no broad secrecy clauses such as the United Kingdom and the Netherlands. For instance, not all personal information is exempt, but only specific types of personal information, such as medical information, information on prosecuted people or other types of sensitive information. Other personal data, such as school grades can be requested.⁵⁴ It is also worth mentioning that the PAISA does not recognise the personal opinions of officials as the frank provision of policy advice as grounds for secrecy. It can be said that this kind of a secrecy clause does not align with the Swedish culture of openness, while it can also be said that many documents with such personal policy views will not qualify as official documents.

It can be concluded that under Swedish law, little information is secret and that the period for responding to requests is short. The question is then how these legal obligations have an impact on an urban level.

Stockholm does not use a central authority to respond to information requests. Instead, the responsibility to respond to requests lies with the public authority that holds the information.⁵⁵ Within the authority, the official who is appointed through internal rules is responsible, and otherwise the head of the authority.⁵⁶ The various authorities in Stockholm can therefore decide for themselves how they want to distribute this responsibility. Although some authorities employ specialised legal staff to manage information requests, it is usually the employee responsible for the project or dossier who also handles the relevant information requests. Legal staff only get involved in the event that large or complex requests are filed.⁵⁷ Assessing the information requests against the secrecy clauses of the PAISA is a relatively simple process as little information is covered by a secrecy clause. Nevertheless, it is important that all officials are aware of these secrecy clauses as they are the ones managing the requests. For that reason, all officials receive information management training. Stockholm does not publish information requests or responses to those requests online. Due to the decentralised, informal process of handling requests for official documents, there is no information available on the number of requests handled by Stockholm, but the numbers are expected to be large as the City Archives alone handle about 20,000 requests for official documents every year.

4 London

4.1 General introduction

The United Kingdom was one of the last European countries to adopt a right to access public information. The Freedom of Information Act 2000 (hereafter: 'FOIA') first came into effect in 2005. The purpose of this new legislation was to create a cultural shift from secrecy to openness. Officials who were not exposed to public scrutiny became 'arrogant' according to the legislative drafters, as they felt that more openness should lead to more trust in the government and better governance.⁵⁸

⁵³ Section 2 Chapter 2 Tryckfrihetsförordning.

⁵⁴ I. Österdahl, 'Between 250 Years of Free Information and 20 Years of EU and Internet', *Etikk I Praksis* 2016 Vol. 10(1), p. 32.

⁵⁵ Section 2 Chapter 6 PAISA.

⁵⁶ Section 3 Chapter 6 PAISA.

⁵⁷ Stockholm City Archives, *Vägledning för informationshantering i bygg- och anläggningsprojekt i Stockholms stad ur ett arkiv- och offentlighetsperspektiv* 2021, p. 54.

⁵⁸ Cabinet Office, *Your right to know: the Governments proposals for a Freedom of Information Act*, White Paper under Labour government 1997, p. 1.

Over the past fifteen years, there has been an impressive amount of progress in terms of transparency performance and the corresponding cultural shift within public authorities.⁵⁹

4.2 Information management

Unlike the Swedish legislation, the FOIA contains proactive obligations for public authorities to publish information (active transparency) alongside the right to request information (passive transparency). According to the legislator of the FOIA, proactive transparency would play a crucial role in initiating the cultural shift from secrecy to openness. The policy hypothesis is that public authorities will become accustomed to consistently supplying information to the public in a non-confrontational manner.⁶⁰ The ICO Model Definition Document 2021 describes the seven categories of information that have to be proactively published.⁶¹ These categories include organisational information (such as basic structure of the authority, procedure for decision making), budgetary information (such as spending, public procurements), information regarding activities (such as policy, political priorities, services) and other information (including public registers). The Greater London Authority (hereafter: GLA) publishes this information on its website,⁶² including all decisions on information requests. As a result, anyone can find these documents and a request does not need to be submitted.

In terms of passive transparency, the FOIA recognises the right to information as opposed to documents. The right to access public information only applies for information that concerns a public matter and is held by a public authority. A requester can specify a preferred form or format of the information. This can be a copy of the document, but also a digest or summary of the information. The public authority must so far as reasonably practicable give effect to that preference.⁶³ In the United Kingdom, local governments have historically had a lot of policy discretion when it comes to information management.⁶⁴ The Public Records Act 1958 only applies to authorities within the central government and does not cover local governments such as the GLA.⁶⁵ The Local Government Act (1972) requires London to make proper arrangements for documents that are in the custody of the public authority. Little external motivation to invest in record management meant that even in the 1990s, only three of the 33 local authorities in London had active record management services.⁶⁶ The 2005 FOIA provided an incentive to actively manage information within the authority. The Code of Practice published in compliance with Section 46 of the FOIA asserts that

⁵⁹ B. Worthy, 'More open but not more trusted? The effect of the freedom of information act 2000 on the United Kingdom central government', *Governance* 2010, Vol. 23(4), p. 561-582; P. Richter & R. Wilson, 'It's the tip of the iceberg': the hidden tensions between theory, policy and practice in the management of Freedom of Information in English local government bodies—evidence from a regional study', *Public Money & Management* 2013, Vol. 33(3), p. 182.

⁶⁰ Cabinet Office, *Your right to know: the Governments proposals for a Freedom of Information Act*, White Paper under Labour government 1997.

⁶¹ Section 19 FOIA; Section 2 Local Government, Planning and Land Act 1980.

⁶² <https://www.london.gov.uk/who-we-are/governance-and-spending/sharing-our-information/freedom-information>

⁶³ Section 11 FOIA; ICO, *Determining whether information is held*, version 3.0, p. 6-10; ICO, *Means of communicating information (Section 11)*, version 2.0, p. 12-13.

⁶⁴ E. Shepherd, A. Stevenson & A. Flinn, 'Freedom of information and records management in local government: help or hindrance?', *Information Polity* 2011 vol. 16, p. 111.

⁶⁵ First schedule Public Records Act 1958.

⁶⁶ E. Shepherd, A. Stevenson & A. Flinn, 'Freedom of information and records management in local government: help or hindrance?', *Information Polity*, 2011 vol. 16, p. 111; TNA, *Report on responses to the National Archives' consultation paper CP03/01: Proposed National Records and Archives Legislation. Proposals to change the current legislative provision for records management and archives*, National Archives, 2004.

active information management was necessary for overall compliance with the FOIA.⁶⁷ Most notably, the Code requires all public authorities covered by the FOIA to create an overview of records retained by the public authority, to create a clear disposal schedule and to assign responsibility for record management within the authority.

The GLA's record management policy stipulates that, with the exception of records that are subject to specific regulation, the majority of records must be retained for the duration of a mayoral term during which they were created and throughout the subsequent mayoral term.⁶⁸ Documents that are of trivial value, duplicates and drafts may be deleted immediately after they have served their purpose.⁶⁹ After this period, records are either destroyed or are of archival value and are therefore transferred to the London Metropolitan Archives.⁷⁰ The disposal schedules are especially important for the right to access public information, as information that is no longer held by the authority cannot be requested under the FOIA.

The GLA's Executive Director of Strategy and Information Governance Officer – both senior officials – are responsible for formulating the record management policy. GLA officials receive some guidance on information management,⁷¹ and have to store digital corporate information and records in folders on the GLA network and hard copies of information on site. Whether information must be stored digitally or physically depends on the form of the main file.

In September 2021, the GLA was reprimanded by Information Commissioner's Office (hereafter: the ICO) for non-compliance with the Code of Practice.⁷² The GLA did not use any electronic document and records management system (EDRMS) or any other corporate or central information or records repository in order to record metadata concerning the creation, existence, disposal or destruction of any records held by the GLA. In London, approximately 50% of all information requests received were rejected because the information was not held by the GLA.⁷³ In 2023, this figure dropped to 7.4%.⁷⁴ The digitisation of public information is therefore a challenge for information management both in Sweden and the United Kingdom.⁷⁵

4.3 Access to public information

A valid request under the FOIA does not require an individual to mention the Act or specify a reason for the request. However, a request cannot be filed anonymously.⁷⁶ Public authorities must process all requests in which the requested information can be distinguished from other information.⁷⁷ However, requests that exceed the appropriate cost limit may be rejected.⁷⁸ This cost limit does not

⁶⁷ Secretary of State for Digital, Culture, Media and Sport, *Code of Practice on the management of records issued under Section 46 of the Freedom of Information Act 2000*, National Archives 2021.

⁶⁸ GLA, Record Management Policy 2020, p. 6.

⁶⁹ GLA, *Record Management Quick Guide part 1*, p. 2 (Part of a FOI-request reference: MGLA280920-5562, 23 October 2020).

⁷⁰ GLA, Record Management Policy 2020, p. 10-11.

⁷¹ GLA, *Record Management Quick Guides* (Part of a FOI-request reference: MGLA280920-5562, 23 October 2020).

⁷² ICO, decision notice: 71239-F4G5 2020.

⁷³ GLA, FOI annual performance table 2021.

⁷⁴ GLA, FOI annual performance table 2022-23.

⁷⁵ E. Shepherd, A. Stevenson & A. Flinn, 'Information governance, records management, and freedom of information: A study of local government authorities in England', *Government Information Quarterly* 2010, Vol. 27(4), p. 337-345.

⁷⁶ Section 8 FOIA.

⁷⁷ Section 8 FOIA.

⁷⁸ Section 12 FOIA.

apply to large requests, which in the case of local governments is set at 18 working hours for locating and retrieving the requested information.⁷⁹ The time it takes to assess whether there are any applicable grounds for exemption is not included in those 18 working hours. Public authorities are always obliged to motivate their decision to apply the reasonable cost limit clause by explaining reasonable search strategies specific to the request.⁸⁰ The FOIA also stipulates that requesters must be supported with submitting valid – and therefore smaller – requests.⁸¹

The cost limit clause loosely resembles the Swedish approach, where requests that require extensive archival research by the public authority can be rejected. In London, in 2022 and 2023 approximately 1.5% of information requests are rejected on these grounds without substantive examination.⁸² The cost limit is not the FOIA's only limitation. All requests that result in disproportionate disruption, irritation or distress may be rejected without substantive examination on the basis that they are 'vexatious' (i.e. frustrating).⁸³ Processing these requests is therefore considered a waste of public resources.⁸⁴ For that reason, the vexatious request clause does not have to be applied with the utmost restraint, although it is reserved for special occasions. In 2022/2023, 1.3% of all information requests were classified as vexatious.⁸⁵

The FOIA states that public authorities have to respond promptly and no later than 20 working days after the request is received.⁸⁶ This term may be postponed within a reasonable period if the so called 'public interest test' of an relative exemption clause is applicable.⁸⁷ The ICO has indicated that another four weeks' postponement will – in almost all cases – be a reasonable period.⁸⁸ Only in exceptional circumstances, such as major incidents that place extreme pressures on public authorities, can longer extensions be justified. In London, the statutory term of four weeks is met in the vast majority of cases – 88% of the time.⁸⁹ The cost limit clause may partially explain why public authorities can respond to information requests on time, since the most time-consuming requests do not have to be processed and individuals may be less likely to request a large amount of information as they know such requests will not be granted.

Compliance with the FOIA is enforced by the ICO. Individuals can request a decision from the ICO on whether the request has been dealt with in accordance with the FOIA after they have filed an initial internal complaint.⁹⁰ In 2022/2023, the ICO received 5479 FOI complaints.⁹¹ Both the public authority and the requestor have the right to appeal against the ICO's decision at the First-Tier Tribunal (Information Rights).

The FOIA has 24 exemptions to the right to access public information. Those exemptions can be categorised as relative (or 'qualified') or absolute. Relative exceptions require a balance of public

⁷⁹ At least if no additional costs, for example for information technology, are required. Sections 3 & 4 Section 4 The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004; Schedule 1 FOIA.

⁸⁰ ICO, *Requests where the cost of compliance exceeds the appropriate limit*, version 1.2, p. 10.

⁸¹ Section 16 FOIA.

⁸² GLA, FOI annual performance tables for FOIA 2022-2023.

⁸³ Section 14 FOIA.

⁸⁴ ICO, *Dealing with vexatious requests (Section 14)*, version 1.3, p. 7-9.

⁸⁵ GLA, FOI annual performance tables for FOIA 2022-23.

⁸⁶ Section 10(1) FOIA.

⁸⁷ Section 10(3) FOIA.

⁸⁸ ICO, *Time limits for compliance under the Freedom of Information Act (Section 10)*, version 1.1, p. 14-15

⁸⁹ GLA, Annual performance tables for FOIA 2022-23.

⁹⁰ Section 17(7) & 50 FOIA.

⁹¹ ICO, *Information Commissioner's Annual Report and Financial Statements 2022-23*, p. 59.

interests, while absolute exceptions do not. Most exemption clauses in the FOIA are broadly specified and require legal interpretation. The exemptions in the FOIA therefore cover more information categories than those in the PAISA. It is worth noting that information held by a government department is exempt information if it relates to the formulation or development of government policy. The purpose of this exemption is to protect good government. It reserves a safe space for civil servants to consider policy options in private.⁹² This exemption only applies to information of the central government. All public authorities – both central and local governments – can exempt information if, in the reasonable opinion of a qualified person, disclosure of the information would, or would be likely to, inhibit the free and frank provision of advice or exchange of views for the purposes of deliberation.⁹³ In the GLA, this qualified person is the mayor and he has only applied this exemption clause twelve times since 2015.⁹⁴ In addition, it is worth mentioning that in the GLA, in 2022/2023 no exemptions were applied in 95% of responses to information requests.⁹⁵

The GLA uses a central Information Governance Team to reply to information requests. The Information Governance Officers are trained legal professionals with expertise in both the right to access public information and privacy matters. The team falls under the responsibility of the GLA Information Governance Manager who with the Executive Director Strategy is also responsible for information management policy. The organisation of transparency and information management is therefore integrated.

When comparing London to Stockholm, it is noticeable that GLA has a centralized team with expertise. This can perhaps be explained by differences between the FOIA and the PAISA. The FOIA is more difficult to apply for non-legal personnel because the exemptions require legal interpretation. However, according to the ICO, small public authorities in the United Kingdom often do not have a centralised team and have FOIA requests handled by non-lawyers. It is likely that the ICO's very comprehensive Guidance Documents facilitate the application of FOIA for all public authorities, especially these small public authorities. In addition, having a central team makes it easier to keep track of information requests. For that reason, in contrast to Stockholm, London has data on how many requests are submitted, which exemptions are applied and how long the processing time is. The GLA publishes all anonymised information requests it receives in this regard on their website. Anyone interested in submitting a request can find previous requests involving similar information.

5 Amsterdam

5.1 General introduction

In the Netherlands, the first transparency act came into effect in 1980 (*Wet openbaarheid van bestuur*, Open Administration Act). Despite the enactment of this legislation, in the administrative culture, disclosing public information was regarded as a favour to the citizen rather than the citizen's right.⁹⁶ This was the reason for the proposal for a new law in 2012: the *Wet open overheid* (Open Government Act, OGA). The OGA should enact a cultural shift within the government from secrecy to transparency, more information should be provided in a proactive manner and decisions on information requests should be taken more quickly. While the OGA was very ambitious, questions

⁹² Section 35(1) FOIA and ICO, *Section 35 - Government policy*, last updated 13 January 2023, that refers to *Department of Health v Information Commissioner* (EA/2018/0001 & 0002, 26 February 2019).

⁹³ Section 36 FOIA.

⁹⁴ GLA, Annual performance tables for FOIA 2022-23.

⁹⁵ GLA, Annual performance tables for FOIA 2022-23.

⁹⁶ Raad voor het Openbaar Bestuur, *Gij zult openbaar maken. Naar een volwassen omgang met overheidsinformatie*, Den Haag: Rob 2012.

were raised about the act's feasibility, resulting in the proposal being watered down. For example, a mandatory document register for governments was removed from the proposal as it would have costed governments too much time and money. The childcare benefits scandal mentioned in the introduction was reason to prioritise transparency rather than feasibility in the legislative proposal. As a result, that the OGA now contains obligations regarding information management and active transparency.

5.2 Information management

The OGA recognises the right to information, which is therefore not limited to official documents.⁹⁷ That includes all information concerning public matters, such as draft versions, internal emails and memos. Other messaging services such as WhatsApp are included if the message relates to a public matter.⁹⁸ Nevertheless, the right is limited to information included in documents. This means there is no obligation to create new documents in response to information requests.

In addition to the OGA, the Netherlands also has an Archive Act (*Archiefwet*). This act is the primary legal frame framework for information management. Public authorities must store information in a sustainable, easily retrievable manner and destroy information that does not need to be transferred to the archives or stored under other legislation.⁹⁹ Public authorities are required to create selection lists showing the applicable retention period per information category.¹⁰⁰ As mentioned, the childcare benefits scandal showed broad inadequacies in the government's information management. For that reason, a clause was added to the OGA stipulating that multi-year plans have to be drawn up and send to parliament, explaining how the information management process is to be improved. The OGA also requires a new digital infrastructure to be created in which public authorities can proactively publish information in an structured manner.

To date, internal information management and the right to access public information are usually treated as separate topics and regulated by separate laws.¹⁰¹ However, Amsterdam has taken steps to integrate information management and transparency. Until 2020, Amsterdam lacked a central approach to information management as departments were thought to better understand their specific information management needs and contexts. In 2019, the need for a central, city-wide organisation was identified due to the increasing challenge and complexity of digitised government processes for information management.¹⁰² A Chief Information Officer was appointed in Amsterdam's executive management team. This Chief Information Officer creates information management policy and leads the City-wide Transparency Team. In order to improve the quality of information management, Amsterdam has released a multi-million euro budget for investments in new, modern software. The rollout of the 'new Amsterdam digital workplace' will be completed in 2024. This digital collaboration environment forms the basis for working with information. In addition, design principles have been established in order to ensure that documents are actually stored in this environment.¹⁰³ The previous working method, which involved storing documents on personal drives, should therefore come to an end. The goal is to expand Amsterdam's new digital workplace over the coming years through the use of metadata and to apply the retention period to

⁹⁷ Section 2.1 OGA.

⁹⁸ ABRvS 20-03-2019, ECLI:NL:RVS:2019:899 (decision by the highest administrative court of the Netherlands).

⁹⁹ Section 3 Archive Act 1995.

¹⁰⁰ Section 5 Archive Act 1995.

¹⁰¹ H.S. ten Cate, 'De verhouding tussen de Archiefwet en de Wob: cohesie of conflict?', Gst. 2019/134.

¹⁰² Gemeente Amsterdam Stadsarchief, Verslag van de Gemeentearchivaris Toezicht op de Staat van het Informatiebeheer 2020-2021, Stadsarchief Amsterdam 2021, p. 24-25.

¹⁰³ Letter from the mayor to the municipal council dated 6 February 2024, p. 3.

files in order to ensure that processes such as the destruction and transfer of documents to the municipal archives are performed at the right time.¹⁰⁴ Amsterdam will use the capstone approach for emails, which gives all emails a standard retention period based on functions, ranging from destruction after a number of years to permanent retention. Emails of 'key officials' are permanently stored, because certain functions are considered nodes of vital information. Saving chat messages continues to be a technical challenges.¹⁰⁵ In addition to software investments, investments will also be made in a cultural change, with the aim of embedding transparency as one of Amsterdam's core values.¹⁰⁶ Amsterdam aims to have its information management completely in order by 2026 and is therefore considered a trendsetter for other public authorities in the Netherlands.

5.3 Access to public information

The OGA allows individuals to request information free of charge, anonymously and without stating a reason.¹⁰⁷ Public authorities are required to process all requests where the requested information can be distinguished from other information.¹⁰⁸ After all, there is no document register, meaning that it's often impossible for applicants to refer to specific documents. Public authorities are also obliged to assist with clarifying requests when the initial request was not specified in sufficient detail.¹⁰⁹ The OGA does include an exception for vexatious requests. A request may be rejected if it serves a clear purpose other than obtaining public information, as such requests are considered an abuse of the right to access public information. The bar for classifying a request as vexatious is high and can include applicants who explicitly indicate that their intention to submit large numbers of requests with the aim of disrupting the government's functioning.¹¹⁰

The OGA contains no restrictions on the number of documents that can be requested and only stipulates that, in the event of a voluminous request, agreements must be made with the applicant about prioritising the request's processing and phased document provision.¹¹¹ The OGA has been criticised by officials with regard to voluminous requests, which prevent them from carrying out their regular duties.¹¹² One frequently mentioned example in this context is requests for information concerning the handling of the coronavirus pandemic. The Dutch Ministry of Health received around 480 information requests concerning vaccinations and testing capacity. The requests concerned 2.4 million documents in total, and for each document it has to be assessed whether grounds for exemption apply. Over 100 officials are still working on publishing these documents.¹¹³ In addition to the size of the requests, the political sensitivity of the subject and inadequate information

¹⁰⁴ Gemeente Amsterdam, *Programma Openbaarheid en Informatiehuishouding op orde; Ambities en doelen voor 2024*, p. 8-9.

¹⁰⁵ Gemeente Amsterdam, *Programma Openbaarheid en Informatiehuishouding op orde; Ambities en doelen voor 2024*, p. 14-15.

¹⁰⁶ Gemeente Amsterdam, *Programma Openbaarheid en Informatiehuishouding op orde; Ambities en doelen voor 2024*, p. 17.

¹⁰⁷ Section 1.1 OGA.

¹⁰⁸ ABRvS 8 December 2004, ECLI:NL:RVS:2004:AR7115 (decision by the highest administrative court in the Netherlands).

¹⁰⁹ Section 4.1 OGA.

¹¹⁰ Section 4.6 OGA and ABRvS 20-12-2017, ECLI:NL:RVS:2017:3482 (decision by the highest administrative court).

¹¹¹ Section 4.4 2a OGA.

¹¹² SEO, *Invoeringstoets Wet open overheid*, November 2023.

¹¹³ <https://www.rijksoverheid.nl/ministeries/ministerie-van-volksgesondheid-welzijn-en-sport/contact/aanpak-vws-woo-verzoeken-corona> and <https://open.minvws.nl/>.

management are also mentioned as reasons behind the prolonged processing time in this specific case.

The OGA states that public authorities are obliged to respond promptly and no later than four weeks after the request is received,¹¹⁴ though this term may be postponed for an additional two weeks.¹¹⁵ All public authorities in the Netherlands struggle to meet this deadline. In 2019, only 29% of requests submitted to the central government were processed within ten weeks¹¹⁶ and in 2023, only 17% of the information requests submitted to the central government were processed within six weeks.¹¹⁷

In 2021, the municipality of Amsterdam performed better than the national average, but still only 41% of information requests received a response within eight weeks.¹¹⁸ The municipal board was not satisfied with this figure and set itself the ambition to respond to 80% of requests on time by 2023. This was an ambitious target, considering that only 42% of requests were processed within the legal period in 2022. The municipality almost managed to achieve this target: in 2023, 73% of the Woo requests submitted were processed within the legal period. This increase is even more impressive considering the increase in the number of information requests (723) compared to 330 requests in 2022.¹¹⁹ How did Amsterdam manage to achieve this kind of change within such a brief period of time? To this end, Amsterdam has completely changed the working method with regard to handling information requests. Until 2022, most information requests were dealt with by the department responsible for the relevant dossier. The official from that department who was tasked with managing information requests usually had to do this in addition to their regular work activities and did not have specific knowledge of the OGA.¹²⁰ Since 2023, the City-wide Transparency Team has centrally collected all information requests and all members of this team have received specialist training in the OGA. One of the team members – the Process Director – coordinates the processing of information requests and contacts both the submitter of the request and the department to which the information request relates. During this contact, they estimate the size and complexity of the request and this information is used to put together a team that will handle the request. The status of information requests is updated through an OGA dashboard.¹²¹ Amsterdam expects to increase the processing percentage even further by asking applicants to use an online form on the municipal website, to improve the OGA Dashboard and to implement software that enables the Transparency Team to search for documents and automatically anonymise them where possible.¹²² Finally, the aim is to start realising a public access centre in 2024, which will serve as a meeting place for Amsterdam residents to access documents and receive help with submitting requests for information. This centre will be located in the City Archives rather than the city hall. This

¹¹⁴ Section 4.4(1) OGA.

¹¹⁵ Section 4.4(2) OGA.

¹¹⁶ SEO Economisch Onderzoek, *Evaluatie afschaffing dwangsomregeling Wet openbaarheid van bestuur*, Den Haag 2020, p. 15.

¹¹⁷ Instituut Maatschappelijke Innovatie, Open State Foundation and University of Amsterdam, *Blaadjes op het spoor. Analyse afhandeling Woo-verzoeken 2023*, February 2024; <https://openstate.eu/nl/2024/02/afhandeling-informatieverzoeken-wet-open-overheid-door-ministeries-verder-vertraagd/>.

¹¹⁸ Rekenkamer Metropool Amsterdam, *Openbaar maken van overheidsinformatie in Amsterdam*, part 2, October 2022, p. 13.

¹¹⁹ Letter from the mayor to the municipal council dated 6 February 2024, p. 1.

¹²⁰ Rekenkamer Metropool Amsterdam, *Openbaar maken van overheidsinformatie in Amsterdam*, part 2, October 2022, p. 22 and 16.

¹²¹ Letter from the mayor to the municipal council dated 6 February 2024, p. 2.

¹²² Gemeente Amsterdam, *Programma Openbaarheid en Informatiehuishouding op orde; Ambities en doelen voor 2024*, p. 12.

development also shows that Amsterdam wants to improve information management and access to public information in an integrated manner.¹²³

As previously mentioned, one of the aims of the OGA is to publish more information on its own initiative. However, the section of the OGA requiring the active disclosure of certain categories of documents has not yet come into force.¹²⁴ Even more noteworthy is the municipality of Amsterdam's ambition to actively publish all of these information categories by the end of 2023. This goal was achieved at the end of 2023. In preparation for a national platform promoting active transparency, the municipality itself developed Open Amsterdam.¹²⁵ The goal over the coming years is to anchor active disclosure in regular work processes and automate this where possible. It will also be linked to the national OGA index.¹²⁶¹²⁷

How is it possible that so many public authorities in the Netherlands – Amsterdam being the odd one out due to its improvements over the last years – fail to comply with their legal obligations? There are several causes for this, including the increased amount and changed – digitised – form of the information. Another reason is that there has been little supervision and enforcement in recent years. The Netherlands has no independent regulatory enforcement authority for public information, such as an Ombudsman or the ICO. There is an archives inspectorate, but it has no enforcement powers. Since the OGA, there is an Advisory Board on Public Access and Information Management. This, too, has no enforcement powers. However, it can mediate between a public authority and a journalist in the event of a dispute arising regarding the handling of an information request.¹²⁸ In addition, someone who submits an information request can lodge an appeal to the administrative court if they believe documents have wrongly not been made public. Dutch administrative courts are relatively accessible, charge low fees and do not require legal representation. The administrative court can assess whether the exemption grounds have been applied correctly. However, if a document has been destroyed in violation of the Archives Act, no sanction can be imposed on the public authority.

The OGA contains 13 grounds for exemptions that can be divided into absolute and relative grounds. Absolute exemptions do not require interests to be weighed up, while relative exemptions do. Absolute exemptions include state security and the most important categories of personal information.¹²⁹ Relative exemptions include harm to the financial interest of the state and the investigation and prosecution of criminal offences.¹³⁰ In particular, three exemptions are worth mentioning. Firstly, there is the exemption for personal opinions of officials protecting the frank provision of policy advice. Public authorities can refuse to make personal opinions public as long as they can successfully argue that this would harm the interest of frank provision of policy advice, even if the opinions are anonymised.¹³¹ Secondly, there is an exemption that states that publishing information can be refused when its importance does not outweigh the proper functioning of the government.¹³² Finally, the OGA contains a safety net provision: in exceptional cases, disclosure of

¹²³ Gemeente Amsterdam, *Programma Openbaarheid en Informatiehuishouding op orde; Ambities en doelen voor 2024*, p. 16.

¹²⁴ Section 3.3 OGA.

¹²⁵ <https://open.amsterdam/>

¹²⁶ <https://open.overheid.nl/>

¹²⁷ Letter from the mayor to the municipal council dated 6 February 2024, p. 3.

¹²⁸ Section 7.2-7.3 OGA.

¹²⁹ Section 5.1(1) OGA.

¹³⁰ Section 5.1(2) OGA.

¹³¹ Section 5.2 OGA.

¹³² Section 5.1(1i) OGA.

information may be omitted when disclosure would cause a disproportionate disadvantage and no other grounds for exemption apply.¹³³ The literature states that these exemptions are sometimes wrongly stretched in order to bypass the right to access public information.¹³⁴ Next to these 13 exemption grounds in the OGA, additional exemptions to the right to access information can be found in different sector-specific legislation. The exemptions in the OGA are broadly formulated and refer to general secrecy interests, such as control, inspection and supervision by public authorities. The consequence of broadly formulated exemptions is that they are more difficult to apply for officials who do not have OGA expertise. This is also given as an explanation for the longer processing time of information requests in the Netherlands. To ensure the quality and uniformity of the handling of information requests, the municipality of Amsterdam has established 'basic principles'. These include guidelines that relate, for example, to publishing the names of officials in certain salary scales; not making make personal policy opinions public unless this would lead to an incorrect or incomplete picture of how a particular decision was reached; and drafts are not inventoried unless this is explicitly requested.¹³⁵ By drawing up such guidelines, the application of the broadly formulated grounds for exemptions is facilitated.

6 Three cities, three transparency regimes

This research shows that the legal framework for information management and public access to public information influences the way transparency is organised in the three cities. Some overarching findings are presented below.

6.1 Information management

There is one clear difference between the Swedish PAISA, on the one hand, and the Dutch OGA and the UK's FOIA, on the other. Access under the PAISA is limited to official documents and excludes almost all internal emails, draft versions of documents or internal memoranda. Under the OGA and the FOIA, all information is included. This has important implications for information management.

The amount of information which must be managed in Stockholm to fulfil its obligations under the PAISA is smaller and more clearly defined compared to Amsterdam and London. Consequently, Stockholm can rely more on officials managing their information themselves, because only official documents need to be managed. In Amsterdam and London, all information that the public authority holds, needs to be managed effectively. This is a more challenging task for officials to integrate into their daily activities, especially in today's digital society where information flows abundantly. According to an estimation of the Dutch National Archives from 2016, 2.750.000 e-mails are sent each year averagely in medium-sized government organisations (250 employees).¹³⁶ In the Netherlands and the United Kingdom, all these e-mails are public and need to be managed, whereas in Sweden, only the ones which qualify as official documents are public and need to be registered. Limiting access to only official documents also makes it possible to include a registration obligation in the PAISA. In the Netherlands, it is considered unfeasible to keep a register if it would mean that all unofficial information has to be included in the register.

¹³³ Section 5.1(5) OGA.

¹³⁴ S.A.J. Munneke, 'Intern beraad: ramen open of deuren dicht? De bescherming van persoonlijke beleidsopvattingen in de Wet openbaarheid van bestuur en de Britse Freedom of Information Act', *Gemeentestem* 2008/124, p. 609-620; L.F.D. Honée, *Is de Wet open overheid minder open dan de Wet openbaarheid van bestuur?*, *NJB* 2023/1559.

¹³⁵ Letter from the mayor to the municipal council dated 6 February 2024, p. 2 and annex.

¹³⁶ B.J. Abels, *Open, openbaar, organiseren? Digitalisering en openbaarheid archieven*, Nationaal Archief 2017.

The obligation for officials to store their documents in the register themselves has meant that officials in Stockholm have a thorough knowledge of the PAISA. When they enter employment, they are also trained in this. London and Amsterdam only recently established an integrated approach to information management and transparency. The first step in Amsterdam was to invest in software that enables storing documents in central document systems and to train officials in the use of these systems. This information management by design makes searching for documents easier when an information request is submitted.

6.2 Access to public information

The backbone of each of the three transparency regimes is passive transparency, i.e. providing the public with information upon request. The regulation on the scope of the request, the period to comply with the request, and which information is exempt, all affect the substance of the right to access public information. Sweden, the Netherlands and the United Kingdom have arrived at different decisions on all these matters in their legislation.

When considering the scope of requests, public authorities in the United Kingdom and Sweden are under no obligation to substantively examine requests that require them to conduct extensive archival research, although the interpretation of extensive archival research varies between the two countries. In the United Kingdom, local governments such as London may reject information requests if it would take over 18 working hours to locate and retrieve the requested information. In Stockholm, there is no fixed amount of time; instead, it is based on the document registers of the public authority and the request. Amsterdam cannot reject a request due to its size, unless the intent is obviously vexatious. Amsterdam will also have to search for the associated documents itself, based on a general description of the subject in the information request. After all, applicants cannot be expected to request specific documents if no register of documents exists.

A second difference concerns the period within which a decision must be made on requests for information. The right to access public documents implies a timely provision of those documents because information can lose its value over time. If we look at the Swedish system, it is possible for Stockholm to handle a large amount of document requests and to quickly provide documents from the register. In London the statutory period of four weeks is usually met. Until 2022, Amsterdam scored dramatically low on this point, with only 42% of requests being processed within the maximum statutory period including the extension option. By investing in new software and a different, centralised organisational structure, this percentage has increased to 73% in 2023 – while the number of requests has also increased.

A third difference to point out are the grounds for exemption. In Sweden, the exemptions within the PAISA are narrowly defined compared to the Dutch OGA and the British FOIA. Personal information is usually public and only exempt when the personal information is significantly sensitive. Thus, it can be said that in Stockholm little information is confidential and the exemptions require less interpretation when an information request is assessed. This ensures that decisions on information requests can be made more quickly. Also, the official who has drawn up or received a document can often assess themselves whether an exemption applies. In Amsterdam and London, this assessment is left to specialist teams.

A final difference in legislation concerns the obligation to actively disclose information. Sweden does not have this obligation; the United Kingdom and the Netherlands do. The latter two countries see active disclosure as a necessary instrument to bring about the desired cultural change within government. Digitisation also makes it easier to actively disclose documents, for example via the municipal website. It could be said that as the Swedish government is already considered

transparent, there would be no need for such active disclosure. However, it could be contended that the principle of diminishing returns applies here to some extent. Would it not be logical to digitise the existing registers in a manner that facilitates immediate access to documents with a single click, provided that no exemptions apply?

6.3 Conclusion

This contribution compared three different practices for organising transparency. The research has established that decisions made by the legislature concerning public access legislation have direct consequences for the organisation of information management and access to government information at the municipal level. In Sweden, government openness is one of the key characteristics of its bureaucracy and the link between information management and access to public information is clearly established in legislation. A major difference between the legislation of Sweden on the one hand and the United Kingdom and the Netherlands on the other is the scope of the legislation. In Sweden, citizens have a right to official documents held by public authorities, whereas in the United Kingdom and the Netherlands, citizens have the right to information regardless of the type of document in which the information is contained. In Sweden, these official documents must be registered. The United Kingdom and the Netherlands do not have such a registration obligation. In the United Kingdom, the regulator ICO has tasks and powers on both information management and disclosure of public information. The local government of Amsterdam started on its own initiative a collaboration with the City Archives and with impressive first results.

A clear difference in the organisation of transparency in the three cities is that in Stockholm, most tasks concerning granting access to information are performed by the official that is handling the topic which the request concerns, while in the United Kingdom and in Amsterdam, this is usually done by specialists. This difference may be linked with differences in legislation. In Sweden, the grounds for refusal of information are more narrowly and precisely defined than in the other two countries, so applying them may require less expertise. Finally, there appear to be major differences between the three cities in the organizational culture of the government and the training and internal instructions that officials receive. It would be interesting to conduct further research to the effects this has on the right to access to public information.