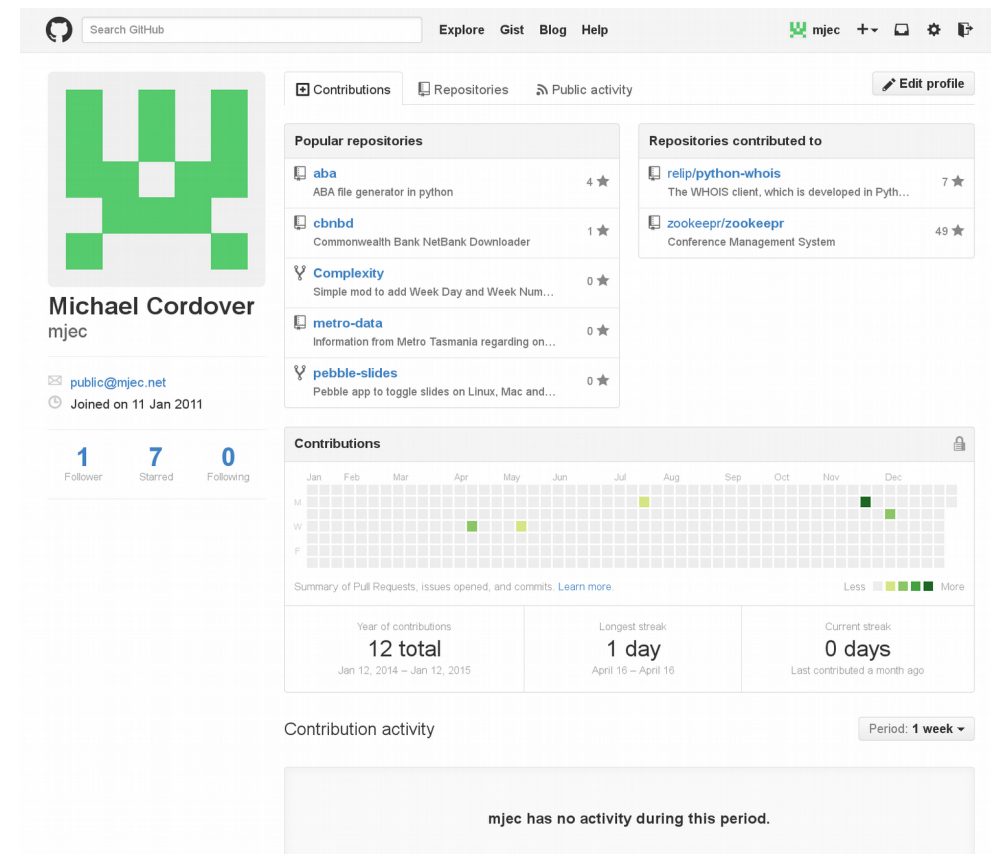


Using FOI to get source code

The EasyCount experience

Who am I?

- I am a lawyer
 - I am not your lawyer (but I could be)
 - I do not speak for my employer
- I am not a developer



It started with a tweet



Asher Wolf

@Asher_Wolf

Re: AEC's 'computerised Senate scrutiny' -
who supplies the machines and software?



RETWEETS

2



1:04 PM - 9 Sep 2013

https://twitter.com/Asher_Wolf/status/376903931374227456

Senate elections

- Single transferrable vote
- Group voting tickets
- Dozens of candidates
- Hundreds of counts
- Fixed point precision

Freedom of Information

- **Section 3**

...information held by the Government is to be managed for public purposes, and is a national resource.

- **Section 11**

... every person has a legally enforceable right to obtain access ... to a document of an agency ...

Document

- (a) any of, or any part of any of, the following things:
 - (i) any paper or other material on which there is writing;
 - (ii) a map, plan, drawing or photograph;
 - (iii) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
 - (iv) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;
 - (v) any article on which information has been stored or recorded, either mechanically or electronically;
 - (vi) any other record of information; or
- (b) any copy, reproduction or duplicate of such a thing; or
- (c) any part of such a copy, reproduction or duplicate;

Request/response cycle

- 4 October 2013
 - code & data specifications
- 5 November 2013 – no
 - No list of documents
- 8 November 2013
 - internal review
- 9 December 2013 – no

Electronic versions

- *“That completes the AEC’s obligations under the Freedom of Information Act 1982 in relation to your request.”*
- **Section 20**
...where the applicant has requested access in a particular form, access shall be given in that form.

OAIC Review

- Office of the Australian Information Commissioner
 - Fast, free, good: pick two
- Disbanded 31 December 2014 (kind of)
- Couldn't decide in time
- Couldn't just decide about list of documents

Crowd funding

- AAT application fee \$861
 - Transcripts, legal fees, access charges
- Pozible campaign
 - ~11:40 launch
 - ~13:20 funding goal reached
 - \$10,330 raised from 213 supporters
 - Donations \$2 - \$2,000

Meanwhile...

- List of documents request

“If the AEC wishes to do so you are free to make an application under s 89K for a vexatious applicant declaration.”

Meanwhile...

- List of documents request

“If the AEC wishes to do so you are free to make an application under s 89K for a vexatious applicant declaration.”

“The AEC on 4 July 2014 applied to the Australian Information Commissioner ... to have you declared to be a vexatious applicant.”

Senate orders release

Senator RHIANNON (New South Wales)

(12:40): I move:

That there be laid on the table by the Special Minister of State, no later than 15 July 2014:

(a) all correspondence and documents, whether written or in email form, from the Special Minister of State's office and/or the Australian Electoral Commission (AEC) relevant to:

(i) the decision of the AEC to have Mr Michael Cordover declared a vexatious applicant, and

(ii) the assertion that Mr Matthew Landauer colluded with Mr Cordover to harass the AEC; and

(b) the source code of the software by which Senate vote counts are conducted.

Question agreed to.

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'Vexatious' digital activist forces Australian Electoral Commission to release secret computer code

July 10, 2014

☆ Read later

Mahesh Sharma

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<http://www.smh.com.au/it-pro/government-it/vexatious-digital-activist-forces-australian-electoral-commission-to-release-secret-computer-code-20140710-zt27i.html>

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Government rejects Senate order to disclose Electoral Commission software code

July 16, 2014 Comments 6 ☆ Read later

Mahesh Sharma

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<http://www.smh.com.au/it-pro/government-it/government-rejects-senate-order-to-disclose-electoral-commission-software-code-20140716-zti03.html>

Appeals process

- Application filed 30 June 2014
- Heais ring likely May-June 2015
- What is a document?
- Is there a trade secret?
- Is there commercial value which will be lost?
- Public interest irrelevant

FOI is a useful tool

- Can force disclosure
- Respected by government
- Available throughout the public sector

FOI is the wrong tool

- Like playing cricket with a tennis racquet
- Expensive
- Copyright maintained
- Substantial and unreasonable diversion of resources
- Defensive culture

They don't get it

“Would you please inform me which VB you are referring to when you mention 'Visual Basic' in relation to Easycount.”

They don't get it

“Would you please inform me which VB you are referring to when you mention 'Visual Basic' in relation to Easycount.”

“The AEC currently uses the version of VisualBasic in C# (c-sharp) .NET.”

Open by default

- Some places it is
 - National Library of Australia
 - Geoscience Australia
- We have done this before
 - Open formats
 - Open source software consumption
 - Open documents
 - Open data

We can do it again

- Government code should be open
- Government is not in an open market
- High level policy decision
- From shadow IT to major projects
 - Reform FOI?
- Collaboration benefits

Explicit call to action

- Linux Australia
- Open Australia Foundation
- Talk to politicians
- Push locally
- Prove the benefits

Thanks

Aaron, Adam Harvey, Adam Thomas, Alan Isherwood, Alex Jago, Alexander Platz, Alistair Campbell, Amanda Rainey, Amelia Higgs, Amos Shapira, Andrew Bettison, Andrew Donnellan, Andrew Mc, Andy Thompson, Anthony David, Antonina Lewis, Arkady G., Asher Wolf, Ben Bligh, Ben Fairless, Ben Williams, Benjamin Nizette, Benno Rice, Brenda Moon, Brendan Molloy, Brian Holt, Bryce Roney, Cameron McCormack, Cameron Moon, Cameron Price-Austin, Campbell Crazyfun Nicol, Caspar Fairhall, Charles Gutjahr, Chris Bisset, Chris Fulton, Chris Gentle, Chris Groves, Chris Henderson, Chris Hibbard, Christopher Neugebauer, Clara, Damon Swayn, Dan Andrews, Dan Tyrrell, Daniel Harvey, Daniel Hoey, Danielle Quinn, Dave Hall, Dave Slutzkin, David Gibson, David Marrott, Derek Adams, Doug Burbidge, Drew Mayo, Emma Roberts, Emrys Nekvapil, Eric Rose, Firstdog Onthemoon, Frank Connell, Geoffrey Roberts, Glenn Tweedie, Gordon Freeman, Grant Diffey, Guy King, Hans Borgar, Henare Degan, Indi Johnston, Jack Kerosene, Jack Scott, James Brooks, James Cunningham, James Greenhalgh, James Polley, James Turnbull, James Wigley, Jason, Jeff Miles, Jeff Waugh, Jeremy Visser, Jillian Harrison, Jimbob, Joel Green, John Chrisoulakis, John Dalton, John Kristensen, Jonno Downes, Jonny Scholes, Josh Stewart, Joshua Chubb, Joshua Cubbin, Julian Mallett, Julien Goodwin, Justin Giersch, Kathy Reid, Kayne Richens, Kevin Murray, Kim Heap, Kristie Walker, Kristof Wing, Kymble Spriggs, Lachlan Musicman, Laura Nilssen, Leo Febey, Linda Emmerton, Linux Australia, Lorant Stary, Louis Matthews, Malcolm McPherson, Mark Nottingham, Mat Farrington, Mathew McBride, Matt Stevenson, Max McHenry, maxious, Michael Carmody, Michael Fitzgerald, Michael Harris, Michael Hellessey, Michael JAMES, Michael Van Delft, Myk Dowling, Naomi Gunton, Nathan Cockroft, Nathan Jones, Neill Cox, Nic Crouch, Nichola White, nick ham, Olivia Ridley, Oscar Barrett, Owen Cameron, Paris Buttfield-Addison, Pat McConville, Patrick Coleman, Patrick Sefton, Paul Davis, Paul Gear, Paul Parker, Pearce H. Delphin, Penny Sharpe, Peter Hardy, Peter Lawler, Peter Runge, Peter Tonoli, Phill Wall, Potatomonster, Rachel Keith, Rajeev Goré, Richard Stephens, Richard Thompson, Rick Chen, rob kearey, Robert Mibus, Robert, Roger Barnes, Ross Hill, Russell Keith-Magee, Russell Stuart, Rusty Russell, Ryan Kelly, Samuel Leslie, Scott Ludlam, Sean Purdon, Shane King, Silvana, Simon Sharwood, Simon Stanton, simon, Skye Smith, Somebody Sometimes, Steve Elliott, Steve Pratt, Stew, Stuart Hawkes, Stuart Reeh, Theo Wadsley, Thomas James, Tim Bell, Tim Coronel, Tim Hayward, Tim Venum, Tim Webster, Toby Murray, Tom Sulston, Tom Whiteley, Trent Yarwood, Trevor Harding, Vanessa Teague, VirtualWolf, Willem van Ketwich and 33 others.