

CFoIS urges you to support the Freedom of Information Reform (Scotland) Bill



Nine Years Timeline

On 21st June 2017, the Scottish Parliament unanimously voted for post legislative scrutiny of the Freedom of Information (Scotland) Act 2002 (FoISA). In May 2020 the Committee published its report which concluded that legal reform was needed given the evidenced delivery and enforcement issues. The Scottish Government was urged to introduce a Bill but instead, opted to wait until the election of a new Parliament in 2021. Following Katy Clark MSP's consultation launch for a member's Bill on 1st November 2022, the Scottish Government issued its own consultation on 29th November. In November 2023, the Scottish Government opted to pursue a non-legislative approach so in December 2023 permission was secured to introduce a member's Bill, given the clear majority support for the proposals.

After further consultation, meetings and discussion, the [Freedom of Information Reform \(Scotland\) Bill](#) was introduced on 2nd June 2025. The Standards, Procedures and Public Appointments Committee was designated to lead consideration on 10th June 2025. MSPs will debate the general principles of the Bill, on Tuesday 17th February after 2pm. If a majority of MSPs oppose the Bill, it falls.

Current Law

It is 21 years since the legal right to access information became enforceable under FoISA and organisational culture in public services changed to "a presumption of openness and a belief that better government is born of better scrutiny." That goal has not yet been secured as evidenced in media stories and the public's experience.

Public Support for FoI Reform

There were 108 respondents to the call for views comprising 62 individuals (57%) and 46 organisations (43%). The [SPICe analysis of responses](#) shows the extent of support for the Bill's proposals: 80% support the repeal of the publication scheme duty and introducing a duty to proactively publish - including Registers of Scotland; 69% support "pausing" rather than "resetting" the 20-day period to give a response when a public authority seeks clarification from an information requester - including the STUC; 76% support the proposal to introduce a designated freedom of information officer in each Scottish public authority - including Newsbrands Scotland; 76% support the proposal to repeal the First Minister's section 52 power to veto an order to disclose information, as in the Environmental Information Regulations 2004.

Repeated [independent polling in Scotland](#) confirms public support for FoI reform. In 2024: 93% believe FoI should be extended to cover publicly-funded health and social care services (including care homes), 89% want all organisations that provide public services under contract to a public body to fall within scope; 79% think it should be a criminal offence for public bodies or their officials to try to subvert FoI legislation; and 83% think FoI helps to prevent bad practice in public bodies.

General Principles of the Bill

The Policy Memorandum sets out the general principles of the Bill:

- Improving transparency through legislative reform.

- Strengthening the right to information by explicitly stating requestors should receive the requested information unless subject to an absolute exemption.
- Introducing a new mechanism to add bodies for designation under FoISA.
- Requiring pro-active publication of information through a new enforceable duty defined in a Code of Practice which will be subject to consultation.
- Improving compliance with FoISA by requiring an Fol officer to be designated in each public authority.
- Strengthening enforcement powers of the Scottish Information Commissioner.

CFoIS notes the Committee's concerns about various aspects of the Bill but Stage 2 is the procedural route to amend the Bill, address any unintended consequences and provide a transparent process to ensure the Bill delivers improved accountability.

Costs

The SPPA Committee's Stage 1 report on the Bill seeks more detail about the costs of implementing reform but that is problematic. When Fol law was introduced, the cost had to be absorbed by each of the 10,000 designated public bodies who had authority to set up compliance arrangements that suited them making standardised costs variable. Operationally Fol delivery is now a 'business as usual' function so precise costings are rarely published and disaggregated within budgets. What is readily available is evidence of savings in staff time, improved response accuracy and increased efficiency when Fol teams use software that has been purchased to serve multiple, corporate functions such as compliance with data protection law.

The enforceable requirement to proactively publish information replaces the current, Model Publication Scheme which is conceded to have failed to deliver despite defined categories of information that should be routinely available to the public. Evidence supports that pro-active publication reduces costs as people can access the type of information they want to see. Evidence was submitted by SOLAR/ SOLACE in 2019 that reported proactive publication "has been done very successfully" in relation to controversial issues, reducing the anticipated "flood" of requests in respect of matters of public concern. which is why the Committee's inquiry report recommended action. The 2024 poll reported only 6% think Fol is a waste of public money, the lowest number since the question was first asked in 2011.

Conclusion

CFoIS welcomes the Committee's conclusion that "legislation is now needed to update the freedom of information regime in Scotland". It echoes the 2020 PAPLS Committee inquiry report and its Legacy Report recommended "... that the next Parliament robustly pursues the Committee's recommendations to ensure that the Scottish Government makes the necessary changes." For six years Ministers have declined to legislate so this member's Bill is the only option. CFoIS urges MSPs of all parties to vote for the General Principles of the Bill in the Stage 1 debate.

Strengthening Fol Rights to Support Democratic Participation The JRSST Charitable Trust has supported this work in recognition of the importance of the issue. The facts presented and the views expressed in this briefing are, however, those of CFoIS and not necessarily those of the Trust.

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