



Celebrating Interntional Right to Know Day Delivering Fol Reform in Scotland?

Support Legal Reform of the Freedom of Information (Scotland) Act 2002

28th September is celebrated by NGOs as 'Interntional Right to Know Day' and by UNESCO as International Day for Universal Access to Information (IDUAI). UNESCO's 2026 theme is "Upholding Information Integrity in the Digital Age: The role of access to Information in addressing Information Disorder". Around the world people and organisations are promoting the right to information as a pillar of democratic engagement and accountability, highlighting what it can achieve even in the most difficult of circumstances, serves a shield to disinformation and fake news and promotes integration with government priorities such as SDG 16 to build effective, accountable and inclusive institutions at all levels. In 2026, CFoIS hopes that MSPs elected to Session 7 of the Scottish Parliament will seize the opportunity to update Scotland's 24 years old Fol law through legislative reform, strengthen information rights and improve the enforcement of rights.

Fol is popular with the public. Polling for the Scottish Information Commissioner in 2026 revealed that 93% of respondents had heard of the FOI Act, 93% agreed that public bodies should provide support to people who want to access their information, 75% felt that Fol helps prevent bad practice in public bodies and only 6% thought that Fol is a waste of public money.

CFoIS has actively campaigned for an Fol Reform Bill since 2017 to strengthen Fol rights and duties. The Scottish Government has repeatedly declined to legislate despite a parliamentary Committee Inquiry Report published in May 2020 which made a number of recommendations on reform including on pro-active publication, extending which bodies should be covered by Fol law and strengthening the enforcement powers of the Scottish Information Commissioner. Following an extensive consultation process, Katy Clark MSP introduced a member's Bill in June 2025 which was passed at Stage 1 as a majority of MSPs supported its general principles. However, the Bill fell at the dissolution of Parliament on 8th April 2026 but can be reintroduced in this session.

Background

It is 21 years since the Freedom of Information (Scotland) Act 2002 (FoISA) became operational on 1st January 2005. How information is accessed and stored has changed radically creating practical and regulatory problems. Changing the culture in some public bodies remains a challenge, to focus on transparency and accountability instead of secrecy by default.

CFoIS has been actively campaigning for an Fol Reform Bill for nine years to fix evidenced problems. Appendix 1 provides a timeline of the main events to explain

why legal reform is necessary and demonstrating the extent of popular support for reform, and the provisions of the Freedom of Information Reform (Scotland) Bill.

Katy Clark's Fol Reform Bill

Katy Clark's [Freedom of Information Reform \(Scotland\) Bill](#) is a relatively short Bill at 23 sections but it will make a mighty impact as it is drafted to:

- Improve transparency through legislative reform.
- Strengthen the right to information by applying a presumption in favour of disclosure unless subject to an absolute exemption.
- Introduce a further mechanism to add bodies for designation under FoISA.
- Require pro-active publication of information through a new enforceable duty, defined in a Code of Practice which will be subject to consultation.
- Improve compliance with FoISA by requiring an Fol officer to be designated in each public authority.
- Strengthen the enforcement powers of the Scottish Information Commissioner.

The consultation undertaken by the lead Committee for the Bill, the Standards Procedures and Public Appointments Committee, showed significant support for legal change: 84% of respondents supported introducing a presumption in favour of information disclosure when considering the application of a qualified exemption; 80% supported repealing the publication scheme duty and introducing a duty to proactively publish; 64% supported pausing, rather than resetting, the 20-working day response clock when seeking clarification; 76% supported introducing a Freedom of Information Officer in each Scottish public authority; 76% supported creating an offence where information is destroyed with intent to prevent disclosure, even if no information request has been made; 76% supported repealing the First Minister's veto power; and 74% supported the proposals relating to the general functions and enforcement powers of the Commissioner.

The Bill can be reintroduced after the MSP completes the draft proposal stage and final proposal stage, set out in the Parliament's Standing Orders Chapter 9A.

Conclusion

For nine years MSPs have sought to initiate, inquire and make recommendations on what legal reform of FoISA should look like but for six years ministers have successfully declined to legislate. Katy Clark MPS's Bill is the only option. It is the product of public consultation, extensive research, constructed using tested good practice procedures, is pragmatic and modernises Fol law and its delivery mechanisms.

CFoIS urges those who support reform to make their voices heard and we encourage MSPs of each party to support reform of FoISA through Katy Clark's Bill, ensure it completes all stages and becomes law at the earliest opportunity. We support collaborative engagement to ensure the Bill delivers for the public, for designated bodies and the independent regulator. Please contact CFoIS for further information at info@cfois.scot For more information on the Bill and its progress go to the [CFoIS website](#)

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Appendix 1 - The timeline of action to secure FoI reform since 2017.

2017 Extending FOISA to registered social landlords (RSLs) – glacial pace of reform CFoIS published its response to a Scottish Government consultation welcoming the proposal to extend the FoISA to “all Registered Social Landlords irrespective of size”. Eventually, RSLs were designated under FoISA, effective from 2019, which is 17 years after RSLs were removed from FoISA at Stage 3.

2017 CFoIS published a report called ‘The Post Legislative Scrutiny of FoISA - Improving access to information rights in Scotland by examining international practice’. In this report CFoIS noted that FoISA has become weaker and now fails to live up to international standards.

2017 Scottish Parliament unanimously votes for post legislative scrutiny of the Freedom of Information (Scotland) Act 2002 On the 21st of June, the Scottish Parliament unanimously supported a motion calling for the implementation of FoISA be scrutinised as a precursor to reform and for an investigation into the Scottish Government’s compliance with FoI law

2017 Intervention Announced on Scottish Government’s FoI Practice Raised on 15th November 2017 by the Scottish Information Commissioner to support improvements in the Scottish Government's Practice and Performance. [The Commissioner's 2017 letter to the Minister for Parliamentary Business](#) provides further detail on the background to the intervention. In 2026, it remains [ongoing](#).

2018 ‘Get it Minuted’ Campaign CFoIS launched a ‘Get it Minuted’ Campaign calling on people and organisations to ask and insist there are agendas, notes and minutes for internal and external meetings of public bodies.

2019 Scottish Government Launches Consultation on designating more public bodies under FoISA Responses published in 2020, but no subsequent action on designation.

2019 Public Audit and Post Legislative Scrutiny Committee (PAPLS) launched inquiry into FoISA Committee received 58 submissions and held 6 evidence sessions.

2020 Scottish Government published a review called, ‘Freedom of Information International Review: Scope of Bodies Included’ The [report by Douglas Jack](#) makes a number of recommendations including: that Section 6 of FoISA could be amended to cover companies that are more than 50% owned by a public authority (or public authorities); that section 5(2)(b) could be amended to remove any references to the contracting of public services and replace this with the more broad, private bodies that ‘receive significant public funds’.

2020 Post Legislative Scrutiny Report Published The PAPLS’s post legislative scrutiny report is published in May 2020 recommending legislative change led by the Scottish Government and to consult on details such as on proactive publication of information.

2020 The COVID-19 Pandemic As part of emergency legislation in April 2020, the Scottish Government introduced restrictions on freedom of information rights and duties by extending the response time to 60 working days. This proves controversial and is rolled back in May 2020 after strong cross-party opposition. Only the Scottish Parliament changed its FoI law as the UK's FoI Act 2000 remained unaffected during COVID.

2020 CFoIS sets out its proposals on how FoISA should be reformed Building on research, reports and practical experiences of requestors and practitioners, CFoIS report makes specific recommendations strengthening enforceable rights and duties.

September 2020 Scottish Government FoI performance sinks In [the second Progress Report on the intervention](#), the Commissioner reports on the extent and speed of the decline in April to May 2020 which “raises significant concerns” and urges the Scottish Government “to direct immediate attention towards restoring its FOI function.”

2021 PAPLS Legacy Report Published The Committee recommended “... that the next Parliament robustly pursues the Committee’s recommendations to ensure that the Scottish Government makes the necessary changes.” (Para 71)

2022 CFoIS published a Bill to reform FoISA with extensive explanatory notes.

2023 Two Consultations on reform of FoISA Published: Katy Clark MSP publishes a Consultation on 1st November for a Private Member's Bill, and the Scottish Government issues a Consultation on 29th November. Both consultations close on 14th March 2023.

2023 Scottish Government’s FoI performance sinks again leading to a critical report from the Scottish Information Commissioner October 2023: [Fourth Progress Report published](#). “The Commissioner had anticipated that this report would announce the successful conclusion of this intervention, but, unfortunately, the Scottish Government's improvement activity has not reached a point where this work can be appropriately concluded.”

2023 Scottish Government opts for non-legislative reform of FoISA In November the Minister for Parliamentary Business announced that the Scottish Government has decided to pursue non legislative measures to deal with the evidenced problems with FoISA.

2023 Katy Clark MSP Secures Permission to table a Member’s Bill at the Scottish Parliament In December, Katy Clark secures cross party support for a member’s Bill to reform FoISA.

2024 Scottish Government announces FoI Improvement Plan in January The plan is structured around the five areas of concern identified by the Scottish Information Commissioner and covers: [Clearance Procedures](#), [Quality Assurance](#), [Case File Records Management](#), [Case Handling](#) and [FOI Monitoring Requests](#).

2024 Second intervention in Scottish Government on Fol compliance On 4th February 2024 the Scottish Information Commissioner [launched an intervention](#) to support improvements in the Scottish Government's practice on the use of informal communication tools such as WhatsApp, and associated issues relating to the recording, retention and identification of information. In 2026, it remains ongoing.

2024 Non Legislative Action Plan on FoISA Announced The Scottish Government announces the actions and priorities of three workstreams, to improve the operation of Fol rights in Scotland: [workstream 1](#) - consideration and Use of Scottish Ministers' powers to extend coverage of FOISA; [workstream 2](#) - updating statutory guidance for Scottish public authorities; [workstream 3](#) - maintaining full Fol coverage of public the sector in Scotland. In January 2026, it launches a consultation on designating private and third sector providers of social care and care at home services, who provide the majority of care in Scotland. An [analysis of submissions](#) is published in July 2026

2024 The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 is passed by the Scottish Parliament in January and became operational on 16th July. Article 13 delivers the right to freedom of expression, including freedom to seek, receive and impart information and ideas and Article 17 recognises the duty to ensure a child has access to information and material from a diversity of national and international sources. [Section 69 of FoISA](#) specifically provides for the right of children to make an information request

2025 Katy Clark MSP's Freedom of Information Reform (Scotland) Bill is introduced On 2nd June the member's Bill is tabled at the Scottish Parliament following an extensive programme of further research, engagement and drawing on global best practice. The Standards Procedures and Public Appointments Committee was appointed as the lead Committee in June. The Bill updates and amends FoISA by:

- 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 further 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.

2025 In September 2025, the SPPA Committee Issues a Call for Views The [call for views](#) shows significant support for legal change: 84% of respondents support introducing a presumption in favour of information disclosure when considering the application of a qualified exemption; 80% support repealing the publication scheme duty and introducing a duty to proactively publish; 64% support pausing, rather than resetting, the 20-working day response clock when seeking clarification; 76% support introducing a Freedom of Information Officer in each Scottish public authority; 76% support creating an offence where information is destroyed with intent to prevent disclosure, even if no information request has been made; 76% support repealing the First Minister's veto power; 74% support the proposals relating to the general functions and enforcement powers of the Commissioner.

November 2025 Four Oral Evidence Session Convened SPPA Committee hosts four evidence sessions with NGOs and academics, public bodies, the Law Society of Scotland, the Scottish Information Commissioner and Katy Clark MSP with CFoIS.

January 2025 The SPPA Committee Issues the Stage 1 Report The Committee concludes "legislation is now needed to update the freedom of information regime in Scotland". The Committee regrets that the Scottish Government did not bring forward a Bill and decides it will not support the Bill's General Principles.

February 2026 The Stage 1 debate on the Bill A majority of MSPs disagreed with the SPPA Committee view, including some SPPA Committee members, and voted for the General Principles of the Bill on Tuesday 17th February. Therefore, the Bill passed to Stage 2 although MSPs accepted there was insufficient time to complete the further two stages within this Parliamentary session but hoped MSPs in Session 7 would progress the Bill instead.

March 2026 The Bill fell at Stage 2 due to the dissolution of Parliament on 8th April 2026 and can be reintroduced in Session 7. CFoIS looks forward to working with MSPs to ensure the legislation strengthens rights and duties which will build public trust by improving the architecture of transparency and accountability in Scotland.

May 2026

Katy Clark MSP's Freedom of Information Reform (Scotland) Bill can be reintroduced but first a programme of engagement with MSPs is launched. The MSP must complete the draft proposal stage and final proposal stage before the Bill can be reintroduced. The process is set out in the Scottish Parliament's Standing Orders Chapter 9A.

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