

Freedom of Information Practitioners Conference

The Future of FOI – What Needs to Change?

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Campaign for FOI in Scotland

Change from Govt and CFoIS Bill

- Public Audit and Post Legislative Scrutiny Committee Inquiry Report published in May 2020 ‘... there is a clear need to improve the legislation, particularly in respect of the bodies that it covers and in relation to proactive publication.’ 58 written submissions, supplementary evidence, 5 oral evidence sessions - 2019.
[PAPLS052020R2.pdf](#)
- 25th November 2020 and 25th February 2021, Scottish Government agreed there should be a public consultation exercise” on FoISA, but noted on 25th February, “...we are happy to confirm that we agree that a consultation on legislative change should take place early in the new session of the Parliament, taking the recommendations of the Committee’s report as its starting point. Whether this exercise ultimately leads to new primary legislation will depend in part on the outcomes of the consultation exercise, as well as on the views of the new Parliament.” [Minister for Parliamentary Business.dot](#)
- Grant from Andrew Wainright Reform Trust - CFoIS published Bill and Explanatory Notes in January 2022
[Bill/Publications – CFoIS](#)
- Grant from Unite Glasgow Not for Profit Branch to convert Bill and Explanatory Notes into a Consultation document to be launched by an MSP – May 2022
- Publication of member’s Bill imminent

FoISA Agility?

- Section 5 Order – infrequently used, 2019, initiated by Scottish Ministers, consultation process on extensions are ‘skewed’ towards opinions of bodies rather than the views of the public.
- Commissioner’s report of 2015 “FOI 10 years on: Are the right organisations covered?”. [Special Reports \(itspublicknowledge.info\)](https://www.itspublicknowledge.info)
- Audit Scotland report of 2018 gave some indication of the range of organisations created to deliver public services: councils are using an “estimated” 130 ALEOs (arms-length external organisations) which have an annual spend of more than £1.3 billion. ALEOs can be created by public authorities too and some may be a joint venture. [Councils' use of arm's-length organisations | Audit Scotland \(audit-scotland.gov.uk\)](https://www.audit-scotland.gov.uk)
- Services are procured from the public and Third/voluntary/charitable sectors and delivered under contract. As a result, FoISA rights and duties have become fragmented due to changes in how public services are commissioned and delivered.
- The public supports action: opinion polling in 2022 by the Scottish Information Commissioner found that over 80% of those surveyed also said it's either 'very' or 'extremely' important that privately-run but publicly-funded health and social care services are subject to freedom of information (FOI) law.

Voluntary OGP vs Enforceable FoISA?

- Scotland's voluntary 'Open Government Partnership' initiative (OGP) has agreed a third National Action Plan which focuses on: Financial Transparency, Climate Change, Health and Social Care, Participation, and Data and Digital.
- OGP "ensuring decision-making is open and accessible" "... enable meaningful public scrutiny." [Action plan – Scotland, United Kingdom, 2021 – 2025 \(opengovpartnership.org\)](https://www.opengovpartnership.org/action-plan-scotland-uk-2021-2025)
- 2001 'Explanatory Notes' which accompanied the Freedom of Information (Scotland) Bill made the case for a statutory and enforceable right and explained that: 'The Code of Practice on Access to Scottish Executive Information is a non-statutory scheme which requires the Scottish Executive and its associated agencies to make certain information available to the public and to release information in response to specific requests. The Bill creates a statutory right of access and provides for a more extensive scheme for making information publicly available, covering a much wider range of public authorities ...". [b36s1en.pdf \(parliament.scot\)](#) para 5, published 27th September 2001

Support For Legal Reform

STUC GENERAL SECRETARY ROZ FOYER

“... The Freedom of Information Scotland Act has played a key role in ensuring public services, bodies and authorities are purposefully scrutinised for the public benefit. As we enter the 20th anniversary of the Act, it is absolutely vital this legislation is reformed to strengthen these foundations. We support the Campaign for Freedom of Information in Scotland to achieve this, ensuring FOI legislation is fit for the modern age, closing legal loopholes that would otherwise restrict transparency and extending access to information to include outsourced organisations and those providing public services.”

PATRICIA ANDERSON OF THE GIVE THEM TIME CAMPAIGN

“Without FOI legislation, there wouldn’t have been a Give Them Time Campaign. Our FOIs to local authorities turned parents’ individual anecdotes to fact and gave credibility to our claims. They painted an undeniable picture of the widespread postcode lottery of continued nursery funding being allocated to children deferring their p1 start. We wouldn’t have successfully changed the law without it.”



Freedom of Information (Scotland) (No 2) Bill

A BILL TO UPDATE & REFORM
THE FREEDOM OF
INFORMATION (SCOTLAND)
ACT 2002

MEMBER'S BILL

Freedom of Information (Scotland) (No 2) Bill

Evidence Led

- To deliver on the recommendations of the PAPLS Committee.
- To update the law and ensure compliance with human rights law.
- To strengthen the enforceable right of access to information.
- To extend FoISA to those bodies delivering public services, services of a public nature and publicly funded services.
- To introduce a new statutory role of Freedom of Information Officer (FIO).
- To provide agility and clarity in defining duties however information is stored and transmitted such as using temporary What's App message groups.
- To provide a legal duty for pro-active publication.
- To improve enforcement.
- To ensure the regulator, the Scottish Information Commissioner, has sufficient resources to enable the law to work.

Campaign for
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in Scotland



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