

Consultation on a proposed Freedom of Information Reform (Scotland) Bill by Katy Clark MSP

On behalf of a number of Brunstane Bank Residents Organisational Response (Organisation ID no 11)

You are required to complete questions 1-5. Please complete the remaining parts of the consultation that are of interest. You do not need to answer all the questions.

SECTION 1 - ABOUT YOU 1. Are you responding as:

X on behalf of an organisation? – in which case go to Q2B

2B. Please select the category which best describes your organisation:

On behalf of a number of local residents living in Brunstane Bank, Edinburgh who suffered acknowledged hardship and injustice caused by endemic maladministration, (as defined by the Scottish Parliament) within City of Edinburgh Council and the SPSO's history of refusing to address it.

A3. Please choose one of the following; if you choose the first option, please provide your name or the name of your organisation as you wish it to be published.

X I am content for this response to be attributed to me or my organisation

4. Please provide details of a way in which we can contact you if there are queries regarding your response. (Email is preferred but you can also provide a postal address or phone number. We will not publish these details.)

Email address: [Redacted]

5. Which of the following best expresses your view of the proposed Bill?

X Fully supportive

Please explain the reasons for your response.

Questions were submitted to the SPSO via the LGRC, (as was) which they felt they could not ask. We were assured these would be passed on for answering. More than a decade later, we, (and presumably they) are still waiting on answers.

We were advised that we could raise a Judicial Review, (costing we understand £30k-£50k) if we were dissatisfied with the results of the SPSO's investigations. Even if we could afford this, it seems ridiculous to us that members of the public were expected to pay these sums just to have it confirmed that:

Developments cannot be built in two places at once.
The Gas Board could not install new gas mains through our gardens without our knowledge.

The SPSO couldn't investigate our first complaint in 2007 before we raised it in 2008.

It was later confirmed by the Scottish Government's Planning and Architecture advisor that decisions involving planning should be based on competent and verifiable evidence. He also stated that there was no place for deception when dealing with planning matters.

We have submitted two FoI requests to two separate SPSO ombudsmen. This was in an effort to establish why the 19 examples of maladministration we brought to their attention during the three separate complaints we were involved in, were condoned by failing to address them. This is totally at odds with the service they claim they will provide and it was later acknowledged they had a legal obligation to provide.

We felt FoI requests might at least shed some light on this and other 'incompetent nonsense' as we politely referred to it. Despite being aware of these failings and their obligations to the Scottish people, the Scottish Government has, as far as we are aware, failed to challenge the obvious incompetence and bias involved.

8. Which of the following best expresses your view on the creation of a new statutory officer within designated authorities – a Freedom of Information Officer?

X Fully supportive

A FoI Officer with authority to insist on questions being answered is long overdue. There is no place for incompetence and deception by omission in any of these bodies.

If those working for these bodies cannot answer questions because they lack the necessary skill set to enable them to do so, training should be provided. If they will not answer questions because it would confirm maladministration on their part, this should be treated as a disciplinary matter.

9. Which of the following best expresses your view on creating a statutory duty to publish information?

X Fully supportive

Such bodies should be open to scrutiny if they are serving the public and being paid by them, (albeit indirectly via taxation). If they are fulfilling their obligations, they should have no fears. FoI requests arise, presumably, because they are not. It doesn't seem unreasonable to ask, 'Why not'?

13. Any new law can have a financial impact which would affect individuals businesses, the public sector, or others. Do you think any cost is outweighed by the public interest benefit?

X Yes

As taxpayers, we have an absolute right to know that we are obtaining value for money and the service provided is of the standard expected. This was a question raised by former MSP Alex Neil some years ago regarding the SPSO. A question which as far as we are aware was never answered.

16. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

We are obviously speaking from personal bitter experience, but it seems clear that we are not alone in our condemnation of bodies who flout their obligations. It is a sad reflection of society that members of the public have to resort to FoI requests to get to the truth, especially when our elected representatives turn a blind eye.

Anything that improves transparency and accountability should be welcomed, not hindered, if we are to be seen as a civilised society.

Data Protection

As an MSP, I must comply with the requirements of the General Data Protection Regulation (GDPR) and other data protection legislation which places certain obligations on me when I process personal data. As stated above, I will normally publish your response in full, together with your name, unless you request anonymity or ask for your response not to be published. I will not publish your signature or personal contact information.

Information on how I process your personal data is set out in my **privacy notice**, which can be found [here](#). Please confirm that you have read the privacy notice by ticking the box below.

- I confirm that I have read and understood the **privacy notice** (referred to above) to this consultation which explains how my personal data will be used.

If a respondent is under 12 years of age, I will need to contact you to ask your parent or guardian to confirm to us that they are happy for you to send us your views.

- Please tick this box if you are under 12 years of age.

I may also edit any part of your response which I think could identify a third party unless that person has provided consent for me to publish it. If you wish me to publish information that could identify a third party, you should obtain that person's consent in writing and include it with your submission.

If you consider that your response may raise any other issues under the GDPR or other data protection legislation and wish to discuss this further, please contact me before you submit your response. Further information about data protection can be found at: www.ico.gov.uk.

Freedom of Information (Scotland) Act 2002

As indicated above, once your response is received or is placed in the Scottish Parliament Information Centre (SPICe) or is made available to committees, it is considered to be held by the Parliament and is subject to the requirements of the FoISA. So if the information you send me is requested by third parties the Scottish Parliament is obliged to consider the request and provide the information unless the information falls within one of the exemptions set out in the Act, potentially even if I have agreed to treat all or part of the information in confidence or to publish it anonymously. I cannot therefore guarantee that any other information you send me will not be made public should it be requested under FoI. Further information about Freedom of Information can be found at: www.itspublicknowledge.info.