



**Organisational Response (Organisation ID no 54)**

# Consultation on a proposed Freedom of Information Reform (Scotland) Bill

A response on behalf of The Scottish  
Football Association



## Summary response

The Scottish FA agrees that transparency and accountability are of huge importance, and especially so for organisations in receipt of public funding. There are already existing methods of reporting and governance to which governing bodies are subject, to ensure accountability for public funding and transparency in operations. Those related to governance are typically proactively published already.

We do not agree with the supposition that extending FOI is the mechanism by which to strengthen the sector's commitment to transparency and accountability, nor do we see a convincing argument on why this specific change is required, or why achieving change is not feasible within the current regulatory system.

We believe that an extension of Freedom of Information (FOI) regulations to cover voluntary sector bodies, which would include sport's governing bodies such as the Scottish FA and the clubs we engage with, would be disproportionate, would generate an unnecessary burden that would outweigh any perceived benefit and would have the unintended consequence of reducing the amount of grassroots sporting activity currently taking place across the country.

If the ambition of any extension is to ensure the best use of public funding, the blanket extension of FOI is counterproductive. Throughout the sporting sector there are already significant and well-recognised resourcing, facility and accessibility challenges which limit participation. Adding the burden of additional data handling expertise would further impact these resources. As noted in the consultation, large organisations have cited difficulties in resourcing FOI work. These challenges will be even more significant for much smaller, volunteer led organisations who are focused on delivering local, community-based activity. When individual volunteer to help run a sports club, they do so as they want to see participation increase. They don't want to be bogged down in bureaucracy. We are in no doubt that this additional administrative burden, even for a small number of FOI requests, would reduce the number of volunteers willing to commit their time to help run sports clubs, and would eventually lead to clubs closing.

Of particular concern is the lack of clarity around definitions and what extensions are being proposed to be in scope. The consultation refers to all 'contracted public services', 'grants' and 'public funding', and states the aim of 'extend[ing] FoISA to those bodies delivering public services, services of a public nature and publicly funded services.'

Whilst we do not bid for public service contracts, we are in receipt of grant/public funding. The lack of clarity about what an extension would cover in the consultation document suggests a lack of understanding of the funding landscape in the Scottish voluntary/sports sectors and the potential impact of such an extension could be interpreted at its broadest to mean all manner of coverage, making it difficult to understand the parameters of the proposal. The inclusion of grant funding within the terms highlighted is of particular concern and we would again highlight the existing reporting mechanisms and accountability to public bodies that grant recipients undertake in order to ensure transparency and good governance.

An additional area of concern is the insufficient protections in existing FOI provisions from vexatious requests. Again, these would be disproportionately impactful for smaller organisations within the voluntary sector, where individuals or organisations could create burdens for voluntary sector bodies - this would be especially problematic where FOI requests could be made anonymously, and we would argue that additional weight should be given to such considerations when determining whether an extension of FOI would be a proportionate method to address perceived information access issues.

This is of significant relevance in Scottish football. As the governing body, our jurisdiction covers all areas of the game. Given how passionate the footballing public in Scotland is, there is no doubt we would receive a barrage of FOI requests which would cover a range of areas, with very few anything to do with funding we receive. These would create a resourcing burden and would ultimately divert funds from participation and activity to managing such requests.

We, as the governing body of Scottish football, are subject to rigorous and long-standing monitoring procedures to ensure accountability for the public funding we receive and are required to provide detailed reporting to the national agency for sport, **sportscotland**. We are also subject to a regulatory framework that helps to ensure transparency and good governance, and we would reiterate that we are fully committed to these principles and are happy to consider proportionate changes that would strengthen them.

We echo the position of our colleagues at the Scottish Sports Association and Scottish Council for Voluntary Organisations (SCVO) in calling on policymakers to give greater thought to the real purpose of extension and to focus on tailored, proportionate, and financially viable solutions that meet those aims. A disproportionate or one-size-fits-all approach would place unnecessary burdens on voluntary organisations, divert resources from frontline services, create uncertainty, and leave organisations open to vexatious use of FOI.

If there are plans to progress this work, it must be done with further detailed discussions and consultation with and across the voluntary sector.

#### **Key asks**

- That the current commitment of voluntary and sports sector organisations to transparency and accountability is recognised,
- That the specific information rights issue or issues that need to be addressed are determined and explicitly stated,
- That a definition of public service delivery is outlined, in consultation, to understand what is considered to be in scope for an extension,
- That untargeted blanket extensions that will place unnecessary burdens upon voluntary sector organisations are to be avoided,
- That consideration is given to protect voluntary sector organisations against vexatious requests,
- That further consultation is undertaken with sector organisations to determine additional methods that could be used to strengthen access to information, if required.

#### **SECTION 1 - ABOUT YOU**

##### **1. Are you responding as:**

**an individual – in which case go to Q2A**

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

Organisation

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

**Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)**

**Commercial organisation (company, business)**

**Representative organisation (trade union, professional association)**

**Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)**

**Other (e.g. club, local group, group of individuals, etc.)**

Third sector

**3. 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.**

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

**I would like this response to be anonymous (the response may be published, but no name)**

**I would like this response to be confidential (no part of the response to be published)**

I am content for this response to be attributed to me or my organisation – The Scottish Football Association

**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.)**

[REDACTED]

## **Section 2 YOUR VIEWS ON THE PROPOSAL**

**Note: All answers to the questions may be published (unless your response is “not for publication”).**

**Aim and approach**

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

**Fully supportive**

**Partially supportive**

**Neutral (neither support nor oppose)**

**Partially opposed**

**Fully opposed**

**Unsure**

**Please explain the reasons for your response.**

Partially opposed.

Our response is focused on proposals to extend FOI legislation to voluntary sector organisations, to which we are fully opposed, and as such we have no expressed view on other parts of the proposed Bill.

**Detail of the proposal**

**6. Which of the following best expresses your view on the private sector being designated under FoISA**

**if it is publicly funded and the service is of a public nature?**

**Fully supportive**

**Partially supportive**

**Neutral (neither support nor oppose)**

**Partially opposed**

**Fully opposed**

**Unsure**

**Please explain the reasons for your response.**

**See page 13-17 for reference.**

Neutral (neither support nor oppose)

**7. Which of the following best expresses your view on the third/charitable/voluntary sector being**

**designated under FoISA if it is publicly funded and the service is of a public nature?**

**Fully supportive**

**Partially supportive**

**Neutral (neither support nor oppose)**

**Partially opposed**

**Fully opposed**

**Unsure**

**Please explain the reasons for your response.**

**See page 16 for reference.**

Fully opposed.

The Scottish FA supports SCVO's submission to this consultation.

It is unclear from the consultation what the genuine purpose of any extension of information rights is - this purpose should form the basis of tailored, proportionate and financially viable solutions that can be consulted on before implementation to meet the stated aims.

More effective use of existing powers would be a more viable solution in the first instance. Regardless of the issues that any legislation would aim to overcome, a blanket one-size-fits-all approach would place unnecessary burdens on voluntary sector organisations, take resources away from service delivery, create uncertainty about what would be in legislative scope and leave organisations open to vexatious FOI requests. Beyond vexatious requests, there is also a lack of knowledge among the public about what inquiries are covered by FOI which would plausibly result in requests which would still need to be responded to, even if only to state that the request is not covered by FOI, ultimately wasting time and resources while also giving an incorrect impression of hiding information and therefore reducing trust, rather than improving it.

The consultation's position gives the impression that FOI should be extended at any cost and that voluntary sector organisations should be more than willing to shoulder any additional burden on resources that FOI responsibilities would add. This suggests an absence of due recognition for the current pressures that the sector is already under and the impact that implementation of appropriate FOI staffing and training would have.

Further to this, the language used in the consultation paper highlights a key issue that prohibits a full understanding of the potential impact of the proposals. The consultation refers to all of 'contracted public services', 'grants' and 'public funding', and states the aim of 'extend[ing] FoISA to those bodies delivering public services, services of a public nature and publicly funded services.' This could mean a variety of different income streams are under consideration, which would impact on organisations in different ways. This is particularly concerning with regard to grant funding, as this would cover a significant proportion of the voluntary sector, including some of the smallest organisations which would be least able to subsume the additional resource required within existing staff or volunteer capacity.

Even where there is little expectation of receiving FOI requests, by expanding the legislation to cover these bodies, there would be a responsibility to put in place processes and staff training to deal with potential information queries and as such there is an additional cost, staff resource and training burden created.

We would once again reiterate that there are long-standing and effective existing mechanisms for the accountability of public funding throughout the sector. Any consideration of extension should

clearly identify the gaps that are not currently being addressed by current provision and be accompanied with clear definitions and parameters to ensure that the potential impact can be accurately assessed, again recognising that a one-size-fits-all extension comes with significant drawbacks. As it stands, the proposals put forward in this consultation are too broad and with too many negative impacts to be considered proportionate, reasonable or targeted enough to be justified.

**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?**

**Fully supportive**

**Partially supportive**

**Neutral (neither support nor oppose)**

**Partially opposed**

**Fully opposed**

**Unsure**

**Please explain the reasons for your response**

**See page 21 for reference.**

Neutral (neither support nor oppose)

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

**Fully supportive**

**Partially supportive**

**Neutral (neither support nor oppose)**

**Partially opposed**

**Fully opposed**

**Unsure**

**Please explain the reasons for your response.**

**See page 21 for reference.**

Neutral (neither support nor oppose)

**10. Which of the following best expresses your view on reducing exemptions under FoISA?**

**Fully supportive**

**Partially supportive**

**Neutral (neither support nor oppose)**

**Partially opposed**

**Fully opposed**

**Unsure**

**Please explain the reasons for your response.**

**See page 26 for reference.**

Neutral (neither support nor oppose)

**11. Which of the following best expresses your view on amending FoISA to prevent the use of confidentiality clauses where inappropriate between public authorities and contractors providing public services?**

**Fully supportive**

**Partially supportive**

**Neutral (neither support nor oppose)**

**Partially opposed**

**Fully opposed**

**Unsure**

**Please explain the reasons for your response.**

**See page 26 for reference.**

Neutral (neither support nor oppose)

**12. Which of the following best expresses your view on FoISA being updated to ensure aspects of procurement policy set by the Scottish Government are covered?**

**Fully supportive**

**Partially supportive**

**Neutral (neither support nor oppose)**

**Partially opposed**

**Fully opposed**

**Unsure**

**See page 31 for reference.**

Neutral (neither support nor oppose)

### **Financial implications**

**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?**

**Yes**

**No**

**Not Sure**

**Please explain the reasons for your answer.**

No.

Any extension of information rights must be proportionate and targeted to ensure genuine benefit without causing unnecessary additional costs. A suggested outcome of changes to FOI legislation would be to outsource FOI requirements from public sector bodies to the voluntary sector partners involved in service delivery - while this suggests a cost saving for the public sector bodies, the reality would mean increased costs for voluntary sector bodies, additional resourcing demands on the funding body to support the additional burdens and the likelihood of duplicate requests to both funding recipient and funder.

As previously outlined, there are particularly acute financial pressures already causing challenges in the voluntary sector. Additional regulatory and resource burdens would exacerbate these challenges and it is unclear what genuine benefit an extension would provide that cannot be met under current legislation.

### **Equalities**

**14. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation. What impact could this proposal have on particular people if it became law?**

**Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.**

N/A

### **Sustainability**

**15. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations. Do you think the proposal could impact in any of these areas?**

**Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?**

Voluntary sector organisations deliver a range of benefits across all strands of Scottish society, including health and wellbeing. As previously outlined, the proposals outlined would generate additional burdens for these organisations for little clear benefit.

These additional burdens would result in less capacity for service delivery, creating a negative impact on the contributions of voluntary sector organisations to Scotland's communities.

### **General**

**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 would request that if any aspect of the proposed Bill is progressed, it is done with ongoing discussion and consultation with and across the voluntary sector.

### **Data Protection**

X I confirm that I have read and understood the privacy notice found here for this consultation, which explains how my personal data will be used.