

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

## Organisational Response (Organisation ID no 69)

### University of St Andrews

#### SECTION 1 - ABOUT YOU

1. Are you responding as:

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

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

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

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

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Note: All answers to the questions may be published (unless your response is “not for publication”).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

Neutral (neither support nor oppose)

Please explain the reasons for your response.

- The Freedom of Information (Scotland) Act 2002, is largely effective, it contains provisions to extend the range of bodies that fall within the legislation, which helps ensure that the public retain the ability to seek information on the use of public resources.

- There is benefit in exploring where the legislation could be strengthened or realignment made to ensure that it remains fit for purpose, and exploration of this via the parliamentary processes is welcomed.

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?

χ Partially opposed

Please explain the reasons for your response.

- The public authority that channelled public funding to a private body will fall within the legislation. Where that authority has a well governed relationship with what is likely to be a private sector contractor, key information should be available via the Provisions of FOISA, as the authority is likely to hold such.
- Ideally the public authority should retain responsibility and information should be available from that entity for the activities of private bodies that are engaged to fulfil activities for the authority.

See page 13-17 for reference.

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?

χ Partially opposed

Please explain the reasons for your response.

- The rationale provided in response to question 6 also applies.

See page 16 for reference.

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?

χ Partially opposed

Please explain the reasons for your response

- If such an appointment is to be made, then that should be targeted for public authorities with over 1,000 employees – such an arrangement is unlikely to be valuable in smaller public authorities such as primary schools.
- There are effective FOI practitioner networks, such as the Scottish Higher Information Practitioners Group, which would with Universities Scotland and liaises well with the Office of the Scottish Information Commissioner. Building

communities of practice on a voluntary basis is likely to be more beneficial, not least establishing bases for knowledge exchange.

See page 21 for reference.

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

χ Unsure

- The present mechanisms for proactive publication (publication schemes) do not work well. Ideally, materials should be placed in a publication scheme with defined refresh periods. If expenses are published in a publication scheme annually an authority should be able to refer and rely on those for a response, whilst those materials are available via the publication scheme.

Please explain the reasons for your response.

See page 21 for reference.

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

χ Neutral (neither support nor oppose)

Please explain the reasons for your response.

- The constitutional relationship between the Sovereign and Parliament and the confidentiality of that e.g., audiences with ministers is significant. Privacy appears to be an important element governing the value of that relationship.

See page 26 for reference.

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?

χ Partially opposed

Please explain the reasons for your response.

- The legislation works well in this area; there are conditions where such agreements are in the public interest.

See page 26 for reference.

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?

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?

No

Please explain the reasons for your answer.

- Public authorities spend significant monies resourcing FOISA and the Environmental Information (Scotland) Regulations 2004. A balance needs to be found to ensure that governance does not unduly divert resources from other areas of operation.

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.

- If revisions to FOISA take additional resources from other areas of public authority operations, then if service delivery is negatively impacted vulnerable persons and others may be disadvantaged.

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?

- No, FOISA is largely sound and well established. The proposed changes do not suggest that the legislation and its ability to enhance the areas listed would be diminished.

## 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)?

Yes, the University experiences significant volumes of requests from potential supplier seeking details of the services we use, and when those that are subject to contract may come up for renewal. Such requests have minimal public benefit, in that procurement rules are followed, limiting the ability for companies to make unsolicited approaches to the University. Ideally, reforms to the legislation would make it easier for public authorities to resist such requests.

Similarly, 'round-robin' requests from journalists, ideally, should be considered to understand if limits can be placed to protect public resources. The right of access to information is powerful, rightly so, and should be respected. Equally, requestors should be capable of exercising their rights responsibly.

### **Data Protection**

I confirm that I have read and understand the terms in the privacy notice that accompanies the consultation.

[Redacted]