

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

## Organisational Response (Organisation ID no 75)

### Zero Tolerance

#### Questions

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:

- an individual – in which case go to Q2A
- on behalf of an organisation? – in which case go to Q2B

**2A. Which of the following best describes you? (If you are a professional or academic whose experience or expertise is not relevant to the proposal, please choose “Member of the public”)**

- Politician (MSP/MP/Peer/MEP/Councillor)
- Professional with experience in a relevant subject
- Academic with expertise in a relevant subject
- Member of the public

##### 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.)

**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.**

- X 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)

Name/organisation: Zero Tolerance

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.)

Contact details: [Redacted]

Note: All answers to the questions may be published (unless your response is “not for publication”).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)  
X Partially opposed  
 Fully opposed  
 Unsure

Please explain the reasons for your response.

Zero Tolerance focuses on the primary prevention of men’s violence against women and girls (VAWG) by tackling its root cause: gender inequality. Women’s inequality provides a conducive context for men’s violence. We approach this consultation through the operational lens of a small charity with nine members of staff and seven trustees. We receive funding from the Scottish Government, including the Delivering Equally Safe Fund.

While we support the aims of this bill to increase transparency and accountability of organisations engaged in public service, we have concerns about the financial and operational impact on charities. For this reason, we partially oppose the bill and have detailed our reasons in the relevant sections below.

#### 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.

Please see point 5.

*See page 13-17 for reference.*

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

Please see point 5.

- 7. 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

This role is not comparable to the need to have a registered Data Protection Officer (DPO). Many charities who would meet the threshold to appoint a Freedom of Information Officer as stipulated by this bill because of their income, may not need a data protection officer. The GDPR requires an organisation to have a DPO only if they are a public authority or body, or if they carry out certain types of processing activities. All charities must show compliance with GDPR but not necessarily to the extent of having the volume of data that would require a Data Protection Officer or the infrastructure to support it. Most charities would need to seek extra funding to appoint a post dedicated to Freedom of Information Officer.

*See page 21 for reference.*

**8. 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.*

**9. 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.

**10. 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.

**11. 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.

## **Financial implications**

**12. 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.

Zero Tolerance urge the Scottish Parliament when considering any reform of Freedom of Information law to consult again with the third sector to fully understand the financial implications for charities. We would support a reform to this legislation when a commitment to a realistic financial threshold that would

exempt charities with limited resources was settled. If this approach is to be pursued, the Scottish Government must commit to increased funding to meet any additional costs associated with implementation of the Bill.

## **Equalities**

**13. 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.**

The proposed extension of FOI legislation to include charities will put those organisations who work with or are led by marginalised or structurally disadvantaged groups at disproportionate risk of vexatious FOI requests.

Organisations which work to better the lives of young people, disabled people, LGBTQ+ people, women, BME people, and those with minority religions often face additional scrutiny from those who would rather see them continue to be structurally disempowered. The feminist sector has been working to increase the diversity of our workforce. Unfortunately, societal racism, transphobia, ableism, homophobia, elitism, xenophobia and misogyny mean that organisations led by marginalised workers are put under disproportionate scrutiny compared to those led by workers with more privilege. This legislation offers those who disapprove of charities objectives based on their values statement or the identities of the people leading the organisation a legitimate process for sustained attacks on capacity and resource.

Zero Tolerance calls for consultation with those charities most at risk of vexatious requests with the aim to include them in the creation of procedures that would safeguard their operational capacity and reduce the risk of FOI legislation becoming yet another barrier for workers from marginalised groups.

## **Sustainability**

**14. 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?

## **General**

**15. 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)?**

## 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](http://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](http://www.itspublicknowledge.info).