



Submission to the Scottish Parliament's Independent Commission on Parliamentary Reform

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CFoIS would like to record its thanks to UNISON Scotland for funding our project on access to information and which has enabled this submission to be researched and written.

Summary

The Campaign for Freedom of Information in Scotland (CFoIS) believes that the Scottish Parliament has an obligation to pro-actively provide information as well as provide the public with information due to:

- Obligations under the Scotland Act 1998 and the Human Rights Act 1998 to comply with jurisprudence of the European Court of Human Rights.
- Obligations under the Scotland Act 1998 to comply with international legal standards on access to information under the International Covenant on Civil and Political Rights.
- Specific legal duties under the Freedom of Information (Scotland) Act 2002 (FoISA) which became effective on 1 January 2005.
- As the Scottish Parliament set up the independent Office of the Scottish Information Commissioner it is important that it too is directed on its human rights duties under the Human Rights Act 1998.

The Scottish Parliament has not seized the opportunity to drive forward compliance on access to information rights, rather it has followed the agenda of the Scottish Executive and then the Scottish Government. Therefore, the separation of powers has not been clear on access to information rights.

Given the popularity of enforceable access to information rights with the public in Scotland, it is right that the Scottish Parliament listens and ensures that the right remains strong which requires reversing a series of actions and addressing omissions which have undermined the public's right to know. CFoIS has made a number of FoI requests about the process of complying with FoISA and we have not yet received responses. We will be happy to share these with the Commission along with our analysis.

Therefore, CFoIS makes the following recommendations:

1. Checks and balances on access to information rights should be reviewed as a matter of priority. Therefore, the Scottish Parliament should instigate an inquiry into the operation of its general duty to be open accessible and accountable to the people of Scotland. The inquiry will focus on the broader concept of access to information rights as well as the practical delivery of FoISA and should take evidence from those who use the right such as the National Union of Journalists and community groups such as tenant associations.
2. The Scottish Parliament reviews its internal procedures and proactively demonstrates its compliance with its founding principles, its obligations under international human rights law and its desire to be a model of best practice globally.
3. Specific action is need to make available to MSPs, journalists, campaigners and bloggers information on all aspects of Parliamentary business which sets out the human rights issues raised, so that the public and the politicians better understand the rights and obligations.
4. The separation of powers between the Scottish Parliament and the Scottish Government needs to be more visible. For example, each year there should be a report on the delivery of the Scottish Government's six FoI principles eg how many times the Scottish Public Information Forum has met and other engagement with stakeholders.
5. The Commission on Parliamentary Reform meets with CFoIS to share information on the operation of access to information rights in Scotland. This

meeting should be minuted and available online.

1. Introduction

1.1 The Campaign for Freedom of Information in Scotland (CFoIS) was established in 1984 to secure a legal right of access to information so that people could find out about how they are governed and how their services are delivered. We have been involved in all the major developments of the legislation both at UK and Scottish levels. CFoIS is independent of government and relies on donations and income generated through training. For more information on our work go to <https://www.cfoi.org.uk/scotland/>

1.2 Recent work has included drafting a briefing on the SSI 'Time for Compliance regulations' and circulating to all political parties at the Scottish Parliament (Oct 2016), making a submission to the UN on the Universal Periodic Review (UPR) of Scotland's compliance with international human rights law (October 2016), producing an 'Agenda for Action for MSPs' following the Scottish Parliament elections (May 2016) and developing a Manifesto for the elections which was sent to each political party. The voluntary commitment is constant including addressing the Glasgow University Human Rights Network meeting on 5th October 'Fol is a human right', speaking at local meetings eg Perth Common Weal on 31st September 2016 and organising a meeting at Strathclyde University to mark International Right to Know day on 28th September 2016.

1.3 The right to access information in Scotland is a very popular right. Understanding of and support for this right has been monitored by the Office of the Scottish Information Commissioner (OSIC) over the last ten years. An Ipsos MORI omnibus poll in November 2015 for OSIC confirmed that there is 85% public awareness of FOI rights in Scotland which is at the highest ever recorded level. In terms of accountability, 77% agree that FOI gives them more confidence in the decisions of Scottish public bodies with only 13% disagreeing with this statement, and 9% felt there was no relationship.¹

1.4 CFoIS recognises that a culture of openness and accountability is as important as the existence of a law to enforce the public's right to know.

1.5 CFoIS is pleased to have opportunities to work with the Scottish Government, the Scottish Parliament, public authorities, civil society and private sector companies to ensure that FoISA is implemented effectively and have organised and participated in a number of activities to this effect such as the Scottish Public Information Forum and organised, on behalf of the Cross Party Group on Human Rights and Civil Liberties, for the Scottish Parliament's Festival of Politics meetings on '50th Anniversary of the European Court of Human Rights' and on 'Privacy and Human Rights (2009 and 2010).

1.6 CFoIS welcomes the establishment of the independent Commission on Parliamentary Reform and we make six proposals in which the Parliament can: be assured it has the right checks and balances are in place, and for them to be defined, to ensure the effective conduct of parliamentary business; increase its

¹ More information is available at the OSIC website

<http://www.itspubliacknowledge.info/home/SICReports/OtherReports/PublicAwarenessResearch2015.aspx>

engagement with wider society and the public; and clarify its identity as distinct from the Scottish Government.

2. Context

2.1 When the Scottish Parliament was set up in 1999 by the Scotland Act 1998, it was designed to be responsive, open, accessible and accountable. The key principles of the report of the Scottish Consultative Steering Group included: 'the Scottish Executive should be accountable to the Scottish Parliament and the Parliament and Executive should be accountable to the people of Scotland'; the Scottish Parliament should be accessible, open, responsive, and develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation'.² The operating culture and the administrative rules should give effect to these values.

2.2 The Freedom of Information (Scotland) Act 2002 (FoISA) only became effective five years later, on 1 January 2005³. FoISA provides the public with an enforceable right to access information from over 10,000 public sector organisations⁴. There is nothing to stop those organisations pro-actively publishing loads information rather than waiting for someone to make an FoI request, apart from specific legislation eg under Data Protection and national security laws. During the passage of FoISA, there was an expectation that lots of information would be pro-actively published but we still do not know how much new and extra information is actually now available. The Environmental Information (Scotland) Regulations 2004 (EIR(S)s), the result of an EU Directive, became effective on 1st January 2005.⁵

2.3 From 2005, the enforceable right to access information has become progressively weakened due to changes in how public services, and services of a public nature, are delivered. Consequently, there has been a negative impact on transparency and accountability in Scotland. Examples include services delivered by the voluntary sector which is a category of organisation not covered by FoISA, and through Arm's Length External Organisations (ALEOs), the number of which is unclear according to Audit Scotland. The Scottish Charity Regulator reports there are 64 ALEOs which are registered charities "These vary in their size, structure and type of activity. The smallest has an income of £15,000 with the largest over £110 million."⁶

2.4 A culture of openness cannot be simply measured by compliance with FoISA and the EIR(S)s. Implementing an organisation wide programme of publication by public authorities is also necessary. Deciding what to routinely publish can be informed by internal discussions as well as analysing FoISA requests for information to check out

² 'Shaping Scotland's Parliament' Report of the Consultative Steering Group on the Scottish Parliament and Presented to the Secretary of State for Scotland December 1998, Para 2 available at http://www.parliament.scot/PublicInformationdocuments/Report_of_the_Consultative_Steering_Group.pdf

³ For more information on the Act and subsequent amendments see website of the Scottish Information Commissioner <http://www.itspublicknowledge.info/Law/FOISA.aspx>

⁴ Freedom of Information (Scotland) Act 2002, Survey of Designated Public Authorities' by Craigforth Consultancy and Research for Office of Scottish Information Commissioner, March 2004. More organisations are covered under human rights law than FoISA eg Scotland has over 200 housing associations.

⁵ The Regulations state "The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, and of all other powers enabling them in that behalf, hereby make the following Regulations" available at <http://www.legislation.gov.uk/ssi/2004/520/introduction/made>

⁶ For more information see OSCR report <https://www.oscr.org.uk/media/1778/2015-01-09-oscr-aleo-report.pdf>

what kind of information the public wants. Public authorities can also ask people what information they would like to be published so that it can be equally accessed and enjoyed. Pro-active publication also avoids the need for individuals to make the request in the first place. A culture of 'what can we publish' should exist rather than 'what do we have to publish'. Pro-active publication should not be confused with the Scottish Government's Open Data Strategy.⁷

2.5 During the passage of FoISA and subsequently, CFoIS has consistently argued that the legislation should cover a much wider section of Scottish society, recognising that our public services are delivered by bodies other than public authorities, though paid for by public money and subject to scrutiny by the Scottish Parliament. CFoIS believes contractors who build and maintain hospitals and schools, who build and maintain trunk roads or water and sewage facilities should be covered by FoISA. Trusts and other arms-length organisations running public service facilities such as building, parking, transport, property, IT, finance and other support services, health, home, safety and social care should also be covered as should the Convention of Scottish Local Authorities (CoSLA) and other umbrella organisations which make key leadership decisions for the public sector.

2.6 The Scottish Government published six FoI principles in 2007 but the Scottish Parliament has not pro-actively audited compliance with them. They include "Maintains effective relationships with the Scottish Information Commissioner and other key stakeholders. We ensure the effective operation of the Act by fostering and maintaining good working relationships on Freedom of Information with stakeholders such as other public authorities and the Scottish Public Information Forum." However, the Forum has not met for several years, not even in a 'virtual' format.

2.7 The extension of powers to the Scottish Parliament under the Scotland Act 2016 has implications for FoISA eg in respect of delivering the additional power of aspects of welfare. It is important to proactively identify broader opportunities for progressing FoISA within this process.

2.8 Via its 2016 Manifesto and Agenda for Action for MSPs, CFoIS has already proposed actions for the Scottish Parliament (See Appendix 1). FoI is an important form of accountability for service design, funding and delivery for Scotland's 10,000 public authorities which are covered by FoISA. Conversely taking services away from the public sector reduces public transparency and accountability.

2.9 This view has also been articulated by the Scottish Information Commissioner, Rosemary Agnew, who said in a report published in January 2015 that there has been a serious loss of FoI rights in the last ten years because of the failure of successive governments to ensure that FoI law kept pace with the privatization of public services. FoI rights have been lost by housing associations taking over council housing, prisons being privatized and the public sector contracting out a series of services to arms-length organisations. The Commissioner stated "My concern is that the powers that enable the extension of the coverage of FoI have been woefully underused, and if not exercised we run the risk of eroding the impact of one of Scotland's major success stories."⁸

⁷ See Scottish Government 'Open Data Strategy' V1.2 February 2015 at <http://www.gov.scot/Resource/0047/00472007.pdf>

⁸ 'FOI 10 years on: Are the right organisations covered?' Special Report published by OSIC and available at <http://www.itspubliacknowledge.info/home/SICReports/OtherReports/otherReports.aspx>

2.10 This report was presented to Parliament and we are disappointed that no inquiry or committee was tasked to take forward the recommendations. This was an opportunity for the Scottish Parliament to react to advice as well as demonstrate the separation of powers between the Parliament and the Scottish Government. CFoIS backs the concerns of the SIC as we have said since the FOISA was passed in 2002, that a much wider range of organisations need to be brought under its coverage.

2.11 In 2002, at Stage 3 of the Freedom of Information (Scotland) Bill, RSLs (housing associations) were removed but the then Deputy First Minister, Jim Wallace, promised they would be added at an early stage: "... the Executive recognises that larger and more formal RSLs might be appropriate for coverage by the Freedom of Information (Scotland) Bill, and they can be added to the bill. There is a statutory obligation to consult before that is done and we will consult the sector. ... I assure members that we expect the majority of organisations to be covered."⁹ Fifteen years later, we are still waiting. Unfortunately, successive administrations have failed to act on this promise and the Scottish Parliament has failed to hold the Scottish Executive and then the Scottish Government to account for breaking the solemn promise made in the Chamber. We acknowledge that in a 2016 consultation, the Scottish Government proposed that all RSLs should be covered by FoISA by 1st April 2018 but we await details and confirmation and that the date will be adhered to.

2.12 It should be noted that public dissatisfaction with the limits of FoISA led to Public Petition 1539 at the Scottish Parliament which called for housing associations to be made subject to FOISA.

2.13 CFoIS believes that the only extension to FoISA to cover leisure and cultural trusts is quite inadequate and FOI rights should cover all public services - whoever delivers them. In addition to the list presented by the SIC, we could add many other bodies. Our care services are increasingly delivered under contract by voluntary or private bodies; privatized services delivering public transport, roads maintenance, water and sewerage services and even some regulatory services are now delivered by non-public bodies like the Citizens Advice Service. The Scottish Parliament can inquire into precisely what bodies are now delivering services of a public nature and which are funded by the public pound so that they can be covered by FoISA.

Conclusion

The people of Scotland must have confidence that public authorities are sufficiently responsive when they make an FOI request. Currently there is an increasing view amongst users of FOI that, at the very least, some authorities are not applying the spirit of the law whilst others have deliberately deployed adaptation strategies to ensure information is not provided. Therefore, it is time for an inquiry into the operation of FoISA and this should be undertaken by the Scottish Parliament. This is the practice in other jurisdictions, for example in Canada the government had to respond to the Report of the Standing Committee on Access to Information, Privacy and Ethics on the Access to Information Act and, which then led to amendments to the Act.¹⁰

⁹ Stage 3 Debate Freedom of Information (Scotland) Bill 24th April 2002, column 8206
<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=4372&mode=pdf>

¹⁰ <https://suzannelegault.ca/2016/09/15/access-to-information-spotlight/>

3 Scottish Parliament 'open, accessible and accountable'

3.1 The report 'Shaping Scotland's Parliament' Report of the Consultative Steering Group recommended that the values and operation of the Parliament should be underpinned by openness, accessibility and accountability to the people of Scotland.¹¹ However it is unclear what impact they make on the routine operation of the Parliament. For example what rules exist for minuting meetings outwith the Chamber and Committees but which are focused on parliamentary business given the civil service code includes a duty to "keep accurate official records and handle information as openly as possible within the legal framework".¹² Another example is that although Standing Orders require that in each Committee Annual Report there is a list of the times it has met in private, we are unclear if there is independent verification of the need for privacy and monitoring the use of this power. Therefore, it is unclear how the founding principles are delivered separate from FoISA.

3.2 The separation of powers between the parliament and the executive is not clear on access to information rights. For example, despite the repeated debate in the Chamber on the impact of austerity on people's lives, discussions about budgets and rising costs of delivering services, no consideration has been given to the cost of accessing information in Scotland. The financial threshold for refusing requests under the FoISA has not kept pace with inflation. Using the Scottish Government's own figures, the financial threshold of £600 for refusing requests for information is now worth £785.

Conclusion

Due to the lack of information, we have made a number of Fol requests to inform this submission. After we receive answers, we request a meeting with the Commission so we can share the information and our analysis.

¹¹ 'Shaping Scotland's Parliament' Report of the Consultative Steering Group on the Scottish Parliament and Presented to the Secretary of State for Scotland December 1998, Para 34 available at http://www.parliament.scot/PublicInformationdocuments/Report_of_the_Consultative_Steering_Group.pdf

¹² For more information see Scottish Government website <https://beta.gov.scot/publications/civil-service-code/>

4. ECHR Jurisprudence

4.1 The Scottish Parliament, independent of government, should be keeping up to date with the jurisprudence of the European Court of Human Rights. The ECtHR has now adjudicated in several cases on access to information as a prerequisite to exercising the human right to form an opinion under Article 10 of the European Convention on Human Rights (ECHR). This issue was covered in a CFoIS report published in 2014.¹³ The most recent Grand Chamber case, *MAGYAR HELSINKI BIZOTTSÁG v. HUNGARY*¹⁴, highlighted the importance of NGOs, Bloggers and journalists in informing the public on issues of public interest. This case should make an impact in Scotland, in the operation of the Scottish Parliament and in the delivery of the functions of the Scottish Information Commissioner given the duties on public authorities under Section 6 of the Human Rights Act 1998 to comply with the ECHR, MSPs to comply with the ECHR and Scottish Government Ministers duty to comply with the ECHR under the Scotland Act 1998¹⁵.

4.2 Access to information as a human right. Human rights provide a framework which ensures the right checks and balances are in place to respect, protect and fulfil people's rights as well as require the public sector and those delivering services of a public nature to deliver on their obligations. Human rights also increase engagement with wider society and the public. It is entirely right and proper that the Scottish Parliament acts on the human right to form an opinion by receiving and accessing information under Article 10 of the ECHR, to fulfil its role as distinct from the Scottish Government.

4.3 Although from October 2016, an Equalities and Human Rights Committee has operated at the Scottish Parliament we recognise that all Committees have a duty to ensure that human rights are complied with.

4.4 Human rights are central to the law on the operation of the Scottish Parliament. The Scotland Act 1998 also places obligations on Scottish Government Ministers to comply with other international human rights treaties that have been "ratified" by the UK, under Section 100 and Schedule 5. Therefore, Parliament can pass legislation which specifically includes duties under internationally ratified treaties e.g. the Children and Young People's Commissioner Scotland (2003) included functions on promoting the UNCRC and the Scottish Commission for Human Rights Act (2006) places duties on the SHRC in respect of internationally ratified treaties.

4.5 The Human Rights Act 1998 (HRA) delivers obligations across government and the public sector. Bodies covered by the HRA include housing departments and housing associations, social work services, schools and nurseries, the police, the courts, GP practices and health services which are all bodies subject to scrutiny by the Scottish Parliament.¹⁶ Not all these bodies are currently covered by FoISA eg RSLs.

Conclusion

The current practice of the Scottish parliament does not sufficiently and explicitly map compliance with the jurisprudence of the ECtHR. The right of MSPs and the public to

¹³ Available at <http://www.cfoi.org.uk/wp-content/uploads/2015/01/CFoIS-30-10-Report.pdf>

¹⁴ For further information on the decision issued on 8th November 2016 see <http://www.iircenter.org/2016/11/15/ecthr-government-obligated-to-impart-information-beneficial-to-public/>

¹⁵ Section 29 requires MSPs to pass legislation which is competent and that includes complying with the ECHR and EU Law. Section 57 of the Scotland Act 1998 places a positive obligation on Scottish Government Ministers to comply.

¹⁶ See EHRC website <https://www.equalityhumanrights.com/en/human-rights/human-rights-act>

form an opinion by receiving and imparting information under Article 10 of the ECHR means that more information and more detailed information needs to be published across all aspects of Parliamentary business eg on procurement.

5. International Human Rights

5.1 As the UK has ratified several international human rights treaties, all our laws and policies should comply. These treaties give people rights, which should be equally enjoyed, and they place specific duties and obligations on governments. These obligations can be specific in relation to individual rights as well as providing an overall framework to deliver compliance. For example, under UN ICESCR (see below) Governments have a general obligation 'to progressively realise to the maximum extent of its available resources' all the rights contained in the Convention. States are helped to give these rights and duties effect within their countries by detailed guidance called 'General Comments'. For example, the United Nations' Human Rights Committee adopted a new General Comment on Article 19 (freedom of opinion and expression) of the International Covenant on Civil and Political Rights (ICCPR) on 21st July 2011.

5.2 As the UK has ratified these treaties there is an independent, international, formal, periodic process to measure compliance and impact of these rights in the UK and Scotland. The Scottish Government and the Scottish Parliament are required to give them effect in respect of devolved matters. A report card 'Concluding Observations' on compliance are periodically published and should be debated in the Scottish Parliament with the individual subject Committees tasked with progressing the required changes so that Scotland complies with international human rights law. The treaties include:

- International Covenant on Civil and Political Rights (ICCPR)
- Convention for the Elimination of all Forms of Discrimination Against Women (CEDAW)
- Convention on Economic, Social and Cultural Rights (CESCR)
- Convention Against Torture (CAT)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).
- Convention on the Rights of the Child (UNCRC)
- Convention on the Rights of Persons with Disabilities (CRPD)

5.3 In respect of the right to access information, there are several specific responsibilities including Article 19 of the ICCPR and Article 31 of the UNCPRD. It is unclear how these rights fit within the operation of the Scottish Parliament. The current policy of confining explicit reference to human rights in the Policy Memorandum which accompanies Bills, and which vary from a single paragraph to more detail, is inadequate. This is an omission as it stifles understanding and debate on the human rights implications of Bills. A more pro-active policy of disclosure is needed and we do not believe this should be subject to legal professional privilege.

5.4 In addition, there are a number of international initiatives which underpin the right to access information. For example, reports from the UN Special Rapporteur 'on the promotion and protection of the right to freedom of opinion and expression'.¹⁷

Conclusion

CFoIS remains unclear how all of these international treaties, standards, investigations and recommendations feature in the disclosure policy and proactive publication of information undertaken by the Scottish Parliament. The issues concern policy, legislation and process.

¹⁷ For more information go to the UN website
<http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/OpinionIndex.aspx>

6. Conclusions and Recommendations

Accessing information is a human right as well as a tool to secure other human rights. It is deserving of renewed care and attention by politicians and staff at the Scottish Parliament.

The Scottish Parliament has a clear role in ensuring that the right to access information in Scotland is robust, is relevant to how modern services funded by the public pound are delivered, is modernised and keeps pace with the values of the Parliament and the duties under human rights law. Action is needed to ensure that accessing information is not just about making information requests under FoISA and the EIR(S)s, but also about the pro-active disclosure of information.

Ensuring that the Scottish Information Commissioner has the power, and the funding, to ensure compliance is key to making the right real.

CFoIS is awaiting answers to FoI requests on some aspects of transparency in the Parliament's systems and procedures. There have been developments which have subtly centralised functions eg CFoIS could organise an event for the Festival of Politics as the Cross-Party Group on Human Rights was allowed to nominate topics and speakers for events, on '50th Anniversary of the European Court of Human Rights' and on 'Privacy and Human Rights' in 2009 and 2010 respectively. Now paid staff appear to choose themes, topics and speakers. The 'professionalization' of politics risks disengaging the Parliament from the public.

Therefore, CFoIS ask that this be considered as the first part of a two-part submission, the next written submission will list the further information we have secured.

At this stage, we make the following recommendations.

1. Checks and balances on access to information rights should be reviewed as a matter of priority. Therefore, the Scottish Parliament should instigate an inquiry into the operation of its general duty to be open accessible and accountable to the people of Scotland. The inquiry will focus on the broader concept of access to information rights as well as the practical delivery of FoISA and should take evidence from those who use the right such as the National Union of Journalists and community groups such as tenant associations.
2. The Scottish Parliament reviews its internal procedures and proactively demonstrates its compliance with its founding principles, its obligations under international human rights law and its desire to be a model of best practice globally.
3. Specific action is need to make available to MSPs, journalists, campaigners and bloggers information on all aspects of Parliamentary business which sets out the human rights issues raised, so that the public and the politicians better understand the rights and obligations.
4. The separation of powers between the Scottish Parliament and the Scottish Government needs to be more visible. For example, each year there should be a report on the delivery of the Scottish Government's six FoI principles eg how many times the Scottish Public Information Forum has met and other engagement with stakeholders.

5. The Commission on Parliamentary Reform meets with CFoIS to share information on the operation of access to information rights in Scotland. This meeting should be minuted and available online.

Appendix 1 2016 Manifesto and Agenda for Action for MSPs

1. Accept that the right to access information is a human right¹⁸.
2. Restore the public's right to access information to at least its 2005 status eg restore FoI rights to 15,000 housing association tenants whose homes were owned by local authorities in 2005.¹⁹
3. Restore the operation of the Scottish Public Information Forum to enable effective engagement with stakeholders, and to maintain and develop an enforceable right to access information which meets the public's expectations.²⁰
4. Extend the right to access information to reflect changes in public service delivery in Scotland eg to voluntary organisations and RSLs.
5. Undertake an audit of all arms-length external organisations (ALEOs) and catalogue their functions, to enable informed decision making about the coverage and operation of FoISA.
6. Quickly extend the coverage of FoISA to all known ALEOs not already included, all public-sector organisations and others delivering services of a public nature.
7. Agree it is the function delivered that requires FoISA coverage. Adopting this principle will ensure consistency in the coverage of FoISA²¹.
8. Maintain the principle that FoISA obligations apply equally to all organisations covered.
9. Reject any introduction of a new category of 'core' public organisations as a way of diluting the effectiveness of FoISA²².
10. Review the operation of FoISA to ensure our enforceable right to access information remains effective in delivering open, transparent and accountable government and public services.

¹⁸ For more information see <https://www.cfoi.org.uk/scotland/>

¹⁹ More detailed analysis is provided in the OSIC Report 'FOI 10 years on: Are the right organisations covered?' available at

file:///C:/Users/Agnes/AppData/Local/Microsoft/Windows/INetCache/IE/R0L7MN7K/Special_Report_10_Years_On.pdf

²⁰ SPIF is included in the Scottish Government's Six FoI Principles

²¹ The EIR does not operate the scheduled/list system and therefore there is already a "function" dimension in existence in Scotland.

²² See 2015 consultation on the Scottish Government website

<http://www.gov.scot/About/Information/FoI/Coverage>