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Standards, Procedures and Public Appointments Committee

Stage 1 report on the Freedom of Information Reform (Scotland) Bill



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Standards, Procedures and Public Appointments Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- (a) the practice and procedures of the Parliament in relation to its business;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members;
- (d) matters relating to public appointments in Scotland;
- (e) matters relating to the regulation of lobbying; and
- (f) matters falling within the responsibility of the Minister for Parliamentary Business.

2. Where the Committee considers it appropriate, it may by motion recommend that a member's rights and privileges be withdrawn to such extent and for such period as are specified in the motion."



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Introduction

1. The [Freedom of Information Reform \(Scotland\) Bill](#) (“the Bill”) was introduced in the Scottish Parliament by Katy Clark MSP, the Member in Charge of the Bill, on 2 June 2025.
2. The Standards, Procedures and Public Appointments Committee (“the Committee”) was designated lead committee on the Bill on 10 June 2025. Under the Parliament’s Standing Orders Rule 9.6.3(a), it is for the lead committee to report to the Parliament on the general principles of the Bill. In doing so, it must take account of views submitted to it by any other committee. The lead committee is also required to report on the Financial Memorandum and Policy Memorandum, which accompany the Bill.

The Bill

3. The Policy Memorandum sets out that the main aim of the Bill is:
 - ” to improve transparency in Scotland by strengthening existing measures in the Freedom of Information (Scotland) Act 2002 (“Fol Act”). The Bill strengthens the public’s right to information by explicitly stating the right to receive the information unless it is subject to an absolute exemption, introduces a new mechanism by which additional bodies may be designated under the Fol Act and requires pro-active publication of information through a new duty to publish. The Bill improves compliance with the Fol Act by requiring an FOI officer to be designated in each public authority and strengthens the enforcement powers of the independent, Scottish Information Commissioner.”¹
4. A range of provisions are made in the Bill to amend various aspects of the Fol Act. Many of these provisions would apply to bodies designated as public authorities under the Fol Act. An information request under the Fol Act can be made to a “Scottish public authority”, as defined in section 3(1) of the Act. This term refers to any body, officeholder, or other person that is listed in schedule 1 of the Fol Act, is designated by order under section 5(1) of Fol Actⁱ, or is classified as a publicly-owned company, as defined in section 6 of the Fol Act. The Scottish Parliament Information Centre (SPICe) has published a [briefing on the Bill](#) which sets out these provisions in detail.
5. SPICe has also published a [briefing on the broader freedom of information landscape in Scotland](#).

Consideration by the Standards, Procedures and Public Appointments Committee

6. The Committee began its scrutiny with [a call for views which ran from 19 September to 22 October 2025](#). 108 submissions were received and these are [published on the Scottish Parliament website](#). A [summary of the submissions](#) has been produced by SPICe.
7. Further supplementary written evidence and correspondence received during the Committee’s scrutiny are available on [the webpage for the Bill](#).
8. The Committee heard oral evidence from the following witnesses over four meetings in November 2025:
 - **6 November:** Dr Ben Worthy, Reader in Politics and Public Policy, Birkbeck College; Dr Erin Ferguson, Lecturer in Law, University of Aberdeen; Professor Kevin Dunion, Director of the Centre for Freedom of Information, University of Dundee; Juliet Swann, Nations and Regions Programme Manager, Transparency International UK; Alex Parsons, Senior Researcher, mySociety/

ⁱ Scottish public authorities designated by order under section 5(1) of the Fol Act must either appear to exercise functions of a public nature or provide services under a contract to a Scottish public authority (where the provision of those services is a function of that public authority).

WhatDoTheyKnow.

- **13 November:** Gordon Martin, Regional Organiser and Lead Officer for CalMac Ferries, National Union of Rail, Maritime and Transport Workers (RMT); Dr Kenneth Meechan, Head of Information and Data Protection Officer, Glasgow City Council; Chris Milne, Former Chair, Scottish Higher Education Information Practitioners Group (SHEIP); Fiona Stuart, Privacy sub-committee member, Law Society of Scotland.
- **20 November:** David Hamilton, Scottish Information Commissioner (“the Commissioner”); Paul Mutch, Deputy Head of Policy and Information, Scottish Information Commissioner; Graeme Dey MSP, Minister for Parliamentary Business and Veterans (“the Minister”); Jill McPherson, Head of Freedom of Information Unit, Scottish Government; Ross Grimley, Legal Directorate, Scottish Government.
- **27 November:** Katy Clark MSP, Member in Charge of the Bill; Carole Ewart, Director, Campaign for Freedom of Information in Scotland (CFoIS).

9. The Committee thanks everyone who contributed to its scrutiny of the Bill.

Consideration by the Delegated Powers and Law Reform Committee

10. The Delegated Powers and Law Reform (DPLR) Committee considered the delegated powers in the Bill at its meetings on 30 September and 28 October 2025, and [published its report on 30 October 2025](#). The DPLR Committee was content with the powers and procedures provided for in the Bill.

Consideration by the Finance and Public Administration Committee

11. The Finance and Public Administration (FPA) Committee [issued a call for views on the Financial Memorandum](#). The call for views closed on 6 November 2025 and [received five responses](#). The FPA Committee agreed to forward the responses to the Committee and take no further action.

12. We comment further on the Financial Memorandum later in this report.

Committee scrutiny of the provisions of the Bill

Access to information held by Scottish public authorities

General entitlement: a presumption in favour of disclosure

13. Section 1 of the Bill would amend the general entitlement of the Fol Act to provide for a presumption in favour of disclosure when a public authority is deciding whether to withhold information under a qualified exemption.
14. The Policy Memorandum states the objective of this proposal is to “change culture and practice to ensure transparency by design.”²
15. A number of academic experts noted in written evidence that a presumption in favour of disclosure was already provided for in the Fol Act. Professor Dunion, for example, said the presumption in favour was “clear” in the Fol Act and “fundamental” to how information requests are considered.³
16. Dr Ferguson thought that while the provision in the Bill “is unlikely to make a significant difference” to the operation of the Fol Act, it could serve to reinforce the Fol Act’s policy intentions: “A presumption of disclosure could help to strengthen transparency by reinforcing the proposition that public authorities are custodians of public information in the public interest. It therefore performs a symbolic function in emphasising that the public have a right to information held in the public interest.”⁴
17. However, the Law Society of Scotland expressed concern that the provision could lead to confusion and legal uncertainty in the application of exemptions under the Fol Act.
18. Evidence from civil society organisations and trade unions generally supported the proposal as a means to drive a culture change within public authorities towards disclosure.
19. Public authorities were uncertain of the necessity of the proposal and had mixed views about its potential impact. Some agreed that the provision could strengthen and formalise a culture of transparency within organisations. Others had concerns about how it might be applied to certain qualified exemptions such as commercially sensitive information.
20. The Commissioner supported the proposal but noted it was already provided for within the Fol Act. He went on to say that “embedding a culture and practice of a presumption in favour of disclosure, supported by a duty to proactively publish information may be preferable to incorporating this presumption into the legislation – which may have unintended consequences.”⁵
21. The Scottish Government said that it was not persuaded of the need for this

provision and considered it “already well understood” that the FoI Act provides for a presumption in favour of disclosure.⁶

22. Ms Clark acknowledged that the FoI Act already provides for a presumption in favour of disclosure, but she argued the change was needed on the basis that “[t]he way that the legislation was framed in 2002 has meant that the system has not worked in the way that was envisaged.”⁷

23. **The Committee notes the arguments in favour of this proposal, but it is not convinced of the necessity or material effect of the change given that section 1(1) of the FoI Act makes it clear that information should be disclosed to individuals requesting information from a public authority. The FoI Act’s section 60 code of practice additionally notes there is a presumption in favour of disclosure under the freedom of information regimes.**

24. **The Committee notes the Commissioner’s view that promotion of a culture and practice of a presumption in favour of disclosure alongside the section 15 provisions of this Bill may be a preferable approach.**

25. **We refer to our overall conclusions on the appropriateness of a Member’s Bill being the vehicle for such reform.**

Further powers to designate Scottish public authorities

Consideration of the Commissioner’s proposals

26. Section 2(1) would require the Scottish Ministers to consider proposals from the Commissioner when deciding whether to include a public authority within the scope of the FoI Act.
27. As stated in the Policy Memorandum, Ms Clark considers the Scottish Ministers “should have a duty to ‘consider’ those evidenced and informed proposals as they draw on case law, enforcement action and experience of all staff in the Commissioner’s office.”⁸
28. The Committee heard no concerns from stakeholders about this proposal.
29. The Scottish Government stated it has “no strong objection to being placed under a statutory obligation” to consider the Commissioner’s proposals, noting that any such obligation “would not commit the Scottish Government to accept that proposal.”⁹ The Minister confirmed this position in oral evidence: “If we are talking about a requirement to consider, the Government would be relaxed about that, but a requirement to be directed would be another matter.”¹⁰
30. Ms Clark said this provision “would strengthen the commissioner’s position and help to drive the bill’s intention, which is to ensure transparency, accountability and

openness.”¹¹

31. **The Committee has no concerns about this proposal for the Scottish Government to be required to consider proposals from the Commissioner when deciding whether to designate a public body.**

Power of the Parliament to designate Scottish public authorities

32. Section 2(2) would give the Scottish Parliament power to designate organisations under the FoI Act as public authorities delivering public functions or services by resolution. The provision includes a requirement for the Parliament to specify the organisation’s functions or services and for a parliamentary committee to consult on the designation with the affected bodies and other stakeholders.
33. The Policy Memorandum states that Ms Clark considers this provision to be “a proportionate approach to designation” and that it “creates an opportunity for Parliament to take the initiative on the pace and detail of designation”.¹²
34. Setting out the broader rationale behind this proposal, the Policy Memorandum details Ms Clark’s view that the Scottish Government has been slow to designate public authorities under the FoI Act. It also suggests the designation of public authorities has not kept pace with changes in the delivery of public functions and services “with the consequence that some public functions were no longer open to full public scrutiny.”
35. Further information on the rationale of this proposal and the proposed mechanism is set out in [supplementary written evidence provided by the CFoIS](#).¹³
36. The DPLR Committee noted that the terms of the proposed power for the Parliament to designate bodies are similar to those already conferred on the Scottish Ministers in section 5 of the FoI Act. Observing that the proposed power may be used only according to specific criteria as set out in the Bill, the DPLR Committee said it was content with the power and the proposed procedure.
37. Several stakeholders thought the proposal may provide for more transparency in decision making in the designation process. Professor Dunion argued that “some degree of parliamentary accountability” was needed concerning the Scottish Government’s decisions on designation.¹⁴ Making a similar point, mysociety said having a greater role for the Parliament would incentivise the Scottish Government to give more detailed explanation for its decisions on whether to designate public bodies: “the involvement of the Parliament in the process encourages providing reasons and being clear about what is going on during the process.”¹⁵ Transparency International UK suggested a parliamentary process could be more transparent on the basis that it would be “probably harder to lobby across the whole parliamentary decision-making process than it is to lobby specific Government decision makers”.¹⁶

38. Trade union stakeholders including UNISON and the RMT supported the proposals but also argued that the designation of bodies and the provision of freedom of information rights should follow public expenditure. Several other organisations such as Bòrd na Gàidhlig and the Archives and Records Association (UK and Ireland) indicated a preference for designation decisions being based on criteria that set out which public functions are subject to the Fol Act.

39. The Commissioner was supportive of the proposal as a way of providing an alternative and potentially faster route for the designation of public authorities:

” The principle of the Parliament having a role in that is a good one—it is an additional role. However, there is nothing to stop the Scottish Government and Scottish ministers continuing in their existing capacity to designate, review and take things forward. Frankly, the Government has not been doing those things, and it is pretty preposterous that the Government said in its submission that it has not been going slowly. If this is not slow, I do not know what slow is, because progress is glacial.

...

We need something that we can adapt much more quickly. If, for whatever reason, the Scottish ministers are not able to designate quickly, maybe there should be another avenue for doing so—one that gives the Parliament and the people the opportunity to designate. ¹⁷

40. The Commissioner said he envisaged the process “would involve consulting more quickly” and be scrutinised by a parliamentary committee: “There would be the same amount of consideration, but it would work a bit faster and be reflective of what matters to people”.

41. Although the Minister acknowledged that stakeholders had frustrations about the pace of designation, he challenged the suggestion that that pace had been “glacial”.

42. The Minister said he “had reservations” about the proposal, and he contended that the current process by which designation proposals are considered under the affirmative procedure “strikes the right balance” between the roles of the Parliament and the Scottish Government. ¹⁸ He expressed concerns about how the proposal would work in practice and whether it would “deliver the robustness that is needed.”

43. A Scottish Government official added that the designation process “has a really strong ministerial interest” and that ministerial involvement “is essential” in exercising section 5 powers of the Fol Act. Expanding on this point, the Minister said the Scottish Government had “the breadth of expertise and input into the process that the Parliament is currently unable to provide.”

44. Ms Clark said she hoped the provision for parliamentary scrutiny would “help to drive designations” by the Scottish Government and anticipated that the process would be used sparingly as it “would require a committee to decide that it was going to use its time in that way, so it would be likely to happen only for a big political issue.” ¹⁹

45. When asked what process was envisaged for initiating resolutions and ensuring robust consultation, Ms Clark said “it would be a matter for committees themselves,

but including the detail in the standing orders would be an option.” She argued that the public scrutiny involved in the Parliament’s consideration of designating a body would provide for a transparent and robust process.

46. **The Committee notes the arguments in favour of this proposal to provide an additional avenue for the designation of public bodies.**
47. **However, the Committee does not think the process by which the Parliament would initiate, consider, and decide on whether a public authority would be designated has been sufficiently considered or laid out in the Bill. Therefore, we are not able to take a view on whether this power would speed up the process of designation or result in more bodies being designated. Any such process should be set out and clarified in legislation before it may be reflected in the Parliament’s Standing Orders.**
48. **We are also conscious that it would likely be a significant undertaking for a parliamentary committee to allocate appropriate time and resources to its consideration of designating a public body. The Committee notes Ms Clark’s view that this power would likely be used sparingly.**
49. **The Committee notes the Scottish Government’s view that the designation process commands strong ministerial interest and that it has concerns that the Parliament may not deliver the same degree of robustness in considering the designation of a public body. However, we refer the Scottish Government to the evidence heard regarding the apparent slow pace of designations and the recent lack of use of the designation process.**
50. **The Committee recommends that the Scottish Government takes the opportunity of the Stage 1 debate to set out how it will prioritise the making of designations beyond its current consultation in respect of private and third sector care providers.**

Extending the definition of publicly owned companies

51. Section 3 provides for the designation of publicly owned companies that are jointly owned by the Scottish Government and any other designated Scottish public authority.
52. According to the Policy Memorandum, this change would “address a problem inadvertently created” in the drafting of section 6(1) of the FoI Act whereby companies are designated if they are jointly owned by public authorities but not if one of those public authorities is the Scottish Government.²⁰
53. An official from the Commissioner’s office described the current situation as “an anomaly”, and he set out how this could affect access to information: “a possible situation that falls within those circumstances is that, because those companies are not covered, people requesting information may not be informed of their rights in order to go on and make an appeal.”²¹

54. In its memorandum on the Bill, the Scottish Government recognised that there is an anomaly in relation to the designation of jointly owned public companies, and it accepted that the section 3 proposal would correct this situation.
55. The Minister informed the Committee that, at the time of giving evidence, the Scottish Government had identified one company – Research Data Scotland – that would require designation under the proposal. He stated the Scottish Government was supportive of the proposal.
- 56. The Committee considers this proposal to be a technical change which addresses an anomaly in the FoI Act. The Committee is of the view that it is right approach to extend designation to companies that are jointly owned by the Scottish Government and other public authorities.**

Reports on the use of section 5 powers

57. Section 5 of the Bill would amend section 7A of the FoI Act which places a duty on the Scottish Ministers to report on the delivery of the section 5 duty (of the FoI Act). The Policy Memorandum explains that the proposal “strengthens” the duty to report to the Parliament and that it would provide for the Parliament to debate and decide whether to approve the report within 20 sitting days of the report being laid.²²
58. Academic stakeholders had mixed views on whether the provision for greater scrutiny by the Parliament over the exercise of section 5 powers would incentivise the Scottish Ministers to use the power more often. Professor Dunion, for instance, thought a single annual debate may not provide sufficient pressure on the Scottish Government while Dr Sean Whittaker (University of Otago) argued the proposal did not address “the root causes” of any hesitation on the part of Scottish Ministers to use the power.²³ In written evidence, Dr Ferguson detailed why the effectiveness of the proposal was “difficult to determine”:

” On the one hand, it can be argued that the reporting requirement introduced in 2013 has facilitated the use of s 5 powers as three section 5 orders have been made since then (and none had been made until that point). The reasons for the slow pace of designation are complex, including lack of certainty on what ‘public functions’ are and the need for robust stakeholder consultation. Additionally, whilst it is important that designation keeps pace with changes in public service delivery so that information rights are not diminished when public services are privatised or outsourced, the speed of designation does not, on its own, improve transparency.

Taking the above into account, the proposals could have some impact on the use of the s 5 power by placing an additional requirement on Scottish Ministers to consider the exercise of the s 5 power during the reporting period. This would complement the existing requirement to explain whether the power has been used and, if not, to explain the reasons why not. The additional requirement has some potential to incentivise regular and robust discussion on the use of the s 5 power, which may help to address the challenge of political will when it comes to the designation of additional bodies as public authorities for FOISA purposes.²⁴

59. As with the section 2(2) proposal, information requesters who gave evidence tended to support this provision for Parliament to scrutinise section 5 reports with the view that it would incentivise the designation of public authorities. mysociety suggested that parliamentary scrutiny of the reports “would have a meaningful value” as “[r]ather than reporting ‘no new designations’, the report is more likely to be a reasoned acceptance or decline of a recommendation from the Information Commissioner.”²⁵
60. The Commissioner also thought the Parliament’s consideration of section 5 reports would be an effective incentive to designate more bodies under the Fol Act.
61. The Scottish Government has taken a neutral position on this proposal which it stated “could have some value in adding a further level of accountability”.²⁶ However, it noted that the provision would demand parliamentary time and that the Bill is silent on what would happen should the Parliament not approve a section 5 report.
62. Ms Clark reiterated her view that parliamentary scrutiny might speed up the process of designation:
- ” The hope is that, if Parliament debated such matters on a standing basis, it would move the issue higher up the agenda and lead to more designations. In such debates, ministers would probably want to be able to say that they had intentions and plans and to give commitments to the Parliament, which we hope would be honoured.²⁷

63. **The Committee notes the evidence that this proposal would provide for parliamentary scrutiny of the Scottish Government’s decisions regarding the use of the section 5 duty of the Fol Act.**

64. **We note that the provision would allow for only 20 sitting days for the Parliament to consider, debate, and decide on whether to approve a section 5 report, and we think further consideration is needed as to whether this is an appropriate period for effective scrutiny.**
65. **The proposal is also unclear on what would happen if the Parliament did not agree to approve the section 5 report, particularly with regard to whether there would be any obligations on the Scottish Government following such a decision.**
66. **As with our view on the power proposed in section 2(2), the Committee is not persuaded that this provision would necessarily increase the pace of designation of public bodies.**

Requesting information with an electronic address

67. Section 6 of the Bill proposes a technical amendment to clarify that the correspondence address provided by the information requester can include an electronic address (i.e. email). The Policy Memorandum states that the change would improve accessibility for both requesters and designated bodies.
68. The Scottish Government stated in its memorandum that it took a neutral position on the proposal, but it added that the drafting of the provision may need to be changed to make it clear that an email address alone is sufficient. It observed that the use of an electronic address for correspondence “is already well established” as being sufficient for making an information request to the Scottish Government: “Such requests are accepted as valid and are processed in the usual way.”²⁸
69. Ms Clark told the Committee the proposal was technical in nature and that, while confident with the drafting, she was open to amendments at Stage 2.

70. **The Committee is content with the objective of this proposal, and we note that the Scottish Government may wish to propose changes to the drafting should the Bill progress beyond Stage 1.**

Pausing the 20 working-day time limit for compliance

71. Under section 10 of the Fol Act, a public authority has a maximum of 20 working days to comply with an information request. If the public authority asks for reasonable clarification about an unclear request, then the time limit will be reset to 20 working days and will not restart until the public authority receives a clear request.
72. Section 7(1) of the Bill would provide for the 20 working-day time limit to be paused, rather than reset, when a public authority asks for a reasonable clarification. The

countdown to the deadline would resume when a response to the clarification is received.

73. The Policy Memorandum states that some information requesters believe public authorities seek clarifications as “a delaying tactic” in order to reset the deadline for compliance.²⁹ It argues the proposal would result in “speeding up responses, instilling good practice and removing any perceived advantage in requesting clarification which does not meet the test of ‘reasonableness’.”
74. A number of stakeholders with experience of making freedom of information requests echoed the suggestion that, in some cases, public authorities had made use of the reset mechanism as a delaying tactic by seeking clarifications only towards the end of the 20 working-day period. The Commissioner’s office said it does not currently collect data on the use of clarifications but may consider doing so in future.
75. Professor Dunion considered that, “the ability to reset the clock is clearly open to abuse”.³⁰ Commenting about public authorities making requests for clarifications which are “obvious”, he said this approach “really aggrieves people who might already be in an adversarial relationship with the authority, and this kind of game playing does not do us any service.” He thought the proposed pause mechanism was less likely to be abused.
76. The Committee heard that pausing the compliance deadline could help mitigate the frustrations that some information requesters had experienced. Dr Worthy, Transparency International UK and mysociety suggested that the pause mechanism could encourage a more constructive and less confrontational exchange between information requesters and public authorities.
77. Public authorities which gave evidence tended to be against the proposal. The Scottish Environment Protection Agency said the reset mechanism is “a valuable tool” which ensures “the requester receives the full value of the time invested in responses to complex requests”.³¹ Glasgow City Council stressed that it did not seek clarifications as a delaying tactic but rather because of the technical or complex nature of requests:
- ” ... from the perspective of the information holders, we are often asked extremely technical questions, as there are a lot of very well-informed applicants out there using the legislation. The more technical the question becomes, the more you need somebody who understands the discipline to be able to analyse the question and say, as an expert in the field, that it is unclear whether the person means this or that. We will not necessarily find that out on day 1 after receiving a request.³²
78. Concerns were also raised about the proposal’s potential resource implications for public authorities. Glasgow City Council, for example, indicated that meeting a tighter compliance deadline would be challenging and may have an impact on the delivery of frontline services. The Law Society of Scotland gave detail on the challenges the pause mechanism may pose for public authorities in seeking clarifications:

” Large public authorities often require input from multiple teams across their organisation and it may only become apparent that a request is unclear once it has been assigned to someone with technical or expert knowledge of the subject matter. The request for clarification may therefore take some time to issue without there being any failure on the part of a public authority to expedite matters, however, this time would be removed from the time the authority has to comply with the request. Alongside this, it is not uncommon for a request to significantly change or be extended in scope following clarification. ... We therefore have concerns that this proposal would effectively reduce the timescales for responding to such requests, in turn, placing additional pressures on certain authorities in terms of compliance.³³

79. The Commissioner thought a pause mechanism would promote good practice in how public authorities seek clarifications and respond to information requests. However, he noted there a pause mechanism could incentivise public authorities to consider the validity of an information request if they ran out of time to respond. In its written submission, the Commissioner’s office put forward an alternative proposal for a short initial period for clarification requests in order to incentivise public authorities to request clarifications at an early stage.
80. The Scottish Government stated it was against the proposal for a pause mechanism, and that it was not aware, through anecdotal evidence, of there being a significant issue with public authorities using requests for clarification as a delaying tactic.
81. A Scottish Government official suggested that the proposal “could result in unintended consequences” as “[v]ery poor responses could go out if the pause happened late in the process”.³⁴ In its memorandum, the Scottish Government stated it was committed to providing, under section 60 of the FoI Act, clearer guidance to public authorities on the approach to seeking clarification.³⁵ The Minister informed the Committee that he would discuss with the Commissioner a revised draft of the section 60 Code of Practice in January 2026 with a view to laying the revised Code before the Parliament before the end of the parliamentary session.³⁶
82. Ms Clark said she viewed the proposal as a technical amendment and that there was broad consensus in favour for a pause mechanism. Supporting Ms Clark, the CFoIS indicated that, compared with the Commissioner’s proposal, the provision in the Bill was simpler and easier for the public to understand.

83. The Committee notes that some information requesters may have experience of public authorities using clarification requests as a delaying tactic.

84. However, there is currently an absence of data with which to determine the extent to which public authorities have engaged in this practice. We are of the view that data on how and when public authorities seek clarifications would be essential in order to determine whether any proposal to pause the 20 working-day deadline would be an appropriate or effective solution.

85. **The Committee considers that this proposal would be a substantive change to the processes in place for considering and responding to information requests and that further work would be required in order to assess the effect that the proposed change would have and whether it would deliver the intended benefit to requesters. This would also be the case for any alternative proposal for changing the time limit for complying with requests or for seeking clarifications, such as that suggested by the Commissioner. The Committee refers to its overall conclusions on the appropriateness of a Member’s Bill being the vehicle for such reform.**

Reducing the time limit for compliance for grant-aided and independent special schools

86. Section 7(2) would repeal the Freedom of Information (Scotland) Act 2002 (Time for Compliance) Regulations 2016, which extended the response time for grant-aided schools and independent special schools to 60 working days to account for the impact of school holiday periods. The Policy Memorandum states that Ms Clark believes the 2016 provision “creates inequalities in rights and duties and should be repealed”.³⁷
87. The Commissioner said he was “sympathetic” towards the proposal “as an equalisation of rights.”³⁸ He said the number of schools affected would be small and that arguments in favour of a longer deadline for compliance could also apply to state schools. He added that “some latitude” would be afforded to schools affected by the change.
88. Other stakeholders did not address this proposal in the evidence provided to and heard by the Committee.
89. In its memorandum on the Bill, the Scottish Government set out its opposition to the proposal. However, it noted that the 2016 regulations could be repealed under existing powers “if it became appropriate” to do so.³⁹
90. Supporting Ms Clark, the CFoIS argued the 2016 change “did not make sense” and that the proposal was about keeping the legislation simple.⁴⁰

91. **The Committee notes the arguments in favour of reducing the time limit for compliance for grant-aided and independent special schools.**
92. **However, the Committee did not hear evidence from stakeholders on the effect this proposal may have on such schools. We think, therefore, that further consideration may need to be given to any potential impact on the affected designated bodies.**

Repealing the publication scheme duty and introducing a duty to proactively publish

93. The Committee considered the Bill's section 8 provision for the repeal of the publication scheme duty in tandem with the section 15 proposals for a proactive publication duty and code of practice on publication.
94. Under the FoI Act, there is a duty for public authorities to publish information proactively through a publication scheme. Such schemes set out the classes of information held by a public authority and how that information should be made available to the public. The Commissioner may also produce a model publication scheme which can be adopted by public authorities.
95. Section 8 would repeal the provisions of the FoI Act relating to the publication scheme duty and the model publication scheme. The Policy Memorandum explains that Ms Clark considers that the publication scheme duty is "outdated" and "poorly understood". The policy intention is for the proposed code of practice on publication, provided for by section 15 of the Bill, to enable "the vitally important duty to publish to keep pace with both technological changes and public expectations."⁴¹
96. Section 15 would insert two new provisions into the FoI Act, sections 60A and 60B, which would provide respectively for a duty of proactive publication and for a code of practice on publication. The code of practice would be issued and enforced by the Commissioner and be subject to parliamentary approval.
97. There was broad consensus among respondents to the call for views and stakeholders who provided oral evidence that the publication scheme duty had not kept pace with changes in the way information is now accessed by the public. Glasgow City Council, for example, told the Committee the publication scheme was "a difficult document to maintain" and that the public preferred to use website search functions to find information.⁴² In its written submission, Bòrd na Gàidhlig set out the difficulties associated with the publication schemes:
- ” The current publication scheme requirements have not kept pace with best practice in accessibility, and require the publication of a scheme that does not reflect how the majority of people now search for and retrieve information in a digital environment. It also has very limited flexibility in terms of publishing information that does not naturally fit within the existing classes of information. This does not prevent publication but does sometimes mean that information that is being published is not represented in the scheme. We would therefore support an update to this part of the legislation.⁴³
98. Some evidence suggested that the code of practice would provide for more flexibility in adapting to technological changes in how information is made accessible to the public.
99. It was also argued that replacing the publication schemes with a proactive duty to publish may promote a culture change within public authorities. Professor Dunion said there was a need to move from "a culture of compliance with the law, towards a system of openness and empowering people."⁴⁴ In addition, several stakeholders suggested the proactive publication of information could reduce the number of

information requests and lead to a less adversarial relationship between information requesters and public authorities.

100. However, the Committee was also told the code may need to address issues concerning the fragmentation of data across public authorities, whether it would stipulate solely for what information is published or also for the accessibility score of what is published, and how speedily information would need to be published for it to be considered “proactive”.
101. The Law Society of Scotland noted that although there would be benefits in replacing the discrete publication schemes with a code of practice for all public authorities, it said this “might result in less autonomy in relation to the tools or systems that each public authority can utilise to deliver that duty.”⁴⁵ It added that, “[t]he key for a code of practice is to provide a degree of autonomy for key requirements to be delivered in line with the tools available to the public authority in question.”
102. Several stakeholders pointed towards uncertainty over the costs and resource implications for public authorities in implementing a proactive duty to publish. These concerns are set out in the section of this report relating to costs associated with the Bill.
103. The Commissioner was in favour of replacing the publication scheme duty with a proactive duty to publish but noted that consultation with stakeholders would be required to develop the new duty and code of practice. The Commissioner went on to say:
- ” I am quite clear that the stakeholders need to work together on different sectors, because it is not going to be a case of one size fitting all. When we start to get people together, it will be a case of asking what they are looking for in order to find a way forward. A code of practice can be iterative in that it can start off very similar to what we have but move rapidly—or slowly, although not as slowly as other things—to a position where it starts to evolve, to reflect what people are looking for and to allow people to strategically design into their systems the way that they do things.”⁴⁶
104. The Scottish Government has stated it cannot support the proposals as currently drafted for a proactive publication duty and a code of practice. A detailed rationale for this position is set out in its memorandum on the Bill. An official told the Committee:
- ” Part of the issue around proactive publication at the moment is that, although we all acknowledge that the current schedule is out of date, there is probably a lack of clarity about what is expected. The reality is that what each public authority would need to proactively publish varies enormously across the sizes and types of organisations.”⁴⁷
105. Ms Clark reiterated her view that “although the 2002 act was framed with the best of intentions, the reality is that the publication schemes have not worked” and that the proposals would be “a more effective way to take things forward.”⁴⁸ She referenced that the proposals were supported by the Commissioner and a broad base of stakeholders.

106. **The Committee notes the broad consensus among stakeholders, and the Scottish Government, that the publication scheme duty is outdated and no longer fit for purpose. The Committee therefore considers that its repeal would be the correct approach provided a suitable alternative provision is developed.**
107. **The Committee considers that the proposal to introduce a proactive publication duty would reflect the intention of the FoI Act. However, as with our view on the section 1 proposal, we are not persuaded that this change would, in itself, drive a change in culture towards information disclosure in public authorities.**
108. **The Committee notes the evidence heard in favour of replacing the publication schemes with a code of practice on proactive publication. We note that further consultation with stakeholders on the content and function of the code would be required. We refer to the evidence on the uncertainty regarding the financial impact of the code on public bodies.**
109. **We think it would have been helpful for the Committee and stakeholders for an indicative draft of the code of practice to have been provided along with the Bill. However, we accept that this would have required significant resource to develop.**

Exempt information

110. Section 9 would provide for an exemption on the disclosure of information that has been provided to the Commissioner in the course of investigating appeals. The exemption would be inserted into the FoI Act as section 41A.
111. The Policy Memorandum states that the absence of such a statutory prohibition from the FoI Act “is understood to have been due to a drafting omission.”⁴⁹ Referring to section 45 of the FoI Act which provides that the Commissioner must not disclose any information which has been obtained by them under or for the purposes of the FoI Act if the information is not already in the public domain, unless the disclosure is made with lawful authority, and that knowingly disclosing such information would be a criminal offence, the Policy Memorandum contends that “[i]t is clearly the intent of section 45 to prevent the disclosure of such information.”
112. Professor Dunion considered the proposed exemption to be “important” on the basis that authorities regularly provide the Commissioner with information that has been withheld and is subject to appeal. He stated that an “assurance that such information is not subject to a s1 request to the Commissioner promotes full access and candid submissions” which could assist the Commissioner’s investigations.⁵⁰
113. mySociety noted that the exemption would enable the Commissioner “to be clear that the information was part of the investigation”. However, it further stated that “the exemption should be tightly focused on any extra information that comes from extra powers” in order to avoid “a situation where the fact that the commissioner is

having an investigation changes the status of some of the information”.⁵¹

114. The Scottish Government stated in its memorandum that while it took a neutral position on the principle of whether a new exemption is needed, it did not support the proposal as currently drafted.⁵² It said the proposal, as drafted, would also allow bodies providing information to the Commissioner “to rely on the exemption as a basis for further withholding that information in response to other requests.” Additionally, the memorandum states that the change would not address the Commissioner’s concern that section 45 of the FoI Act does not provide for a statutory prohibition in the release of information in compliance with the Commissioner’s statutory obligations under the FoI Act.
115. Ms Clark told the Committee that the exemption would apply only in “a very narrow set of circumstances” as outlined in section 47(1) of the FoI Act.⁵³ She said the proposal was based on “experience in practice that this can become an issue” and would assist the Commissioner’s investigative work.

- 116. The Committee notes the Commissioner was in favour of this exemption in Ms Clark’s consultation and that providing a statutory basis for an exemption would add greater clarity to the status of information provided during investigations.**
- 117. We also note the Scottish Government’s concerns about the drafting of the provision. The Scottish Government may wish to work with Ms Clark to resolve these concerns should the Bill progress beyond Stage 1.**

General functions of the Commissioner

Power to require individuals to give evidence to the Commissioner

118. Section 10 would amend section 43 of the FoI Act to enable the Commissioner to require persons employed, contracted or appointed to a designated public authority to provide evidence in order to assist the discharge of the Commissioner’s functions under sections 44, 49, 50 and 51 of the FoI Act.
119. The Policy Memorandum states Ms Clark “is persuaded that this amendment is required to enable the Commissioner to perform their functions”, and that the policy intention is to ensure the Commissioner has access to relevant information held by an organisation pertinent to the Commissioner’s regulatory and enforcement functions.⁵⁴ The memorandum further states that by “enabling the Commissioner to ‘require’ engagement, a clear message is sent about the importance of co-operation with the Commissioner and their staff.”
120. In its written submission, the Commissioner’s office said it was unusual for a regulator to not have power to require witnesses to give evidence as part of interventions or investigating appeals. It then set out the rationale for the proposal:

” The success of interventions to improve public authority FOI practice can often be dependent to the quality of the information gathered as part of that intervention and, as illustrated via the Commissioner’s ongoing intervention to improve the FOI performance of the Scottish Government, in-person interviews with key officials to gain information relating to non-documented culture and practice within organisations is often a key element of that process. An amendment providing the Commissioner with the power to require witnesses to give evidence would reinforce this process, strengthening the quality of interventions and investigations and reducing the potential for inefficiencies. Such a provision would not be required to be widely used, but it would be a vital tool in circumstances where an organisation failed to co-operate fully with my intervention or investigatory work.⁵⁵

121. Giving more detail in oral evidence, the Commissioner said the power to require individuals to give evidence “can help to add some colour to organisational responses”. The Commissioner reiterated that the power “is not something that will be used regularly” and described the measure as “a backstop”.⁵⁶

122. In its memorandum on the Bill, the Scottish Government said it is opposed to the proposal and that it believed public bodies should be held accountable at an organisational level. It set out why it considered the proposal to be unnecessary:

” The Commissioner already has clear powers to compel the provision of information by authorities for the purposes of discharging their functions, and it is already an offence under section 65 of FOISA for any employee or officer of an authority to conceal requested information. It is therefore unclear to the Scottish Government why such a significant new power for the Commissioner would be required.⁵⁷

123. The Committee agrees with Ms Clark and the Commissioner that this proposal is necessary to enable the Commissioner to perform their functions.

Enforcement

Appeals about the handling of information requests by the Scottish Information Commissioner

124. Section 11 would repeal section 48(a) of the FoI Act which prevents the Commissioner from investigating the handling of information requests by their own office.

125. The Policy Memorandum states this proposal would benefit information requesters by providing for an appeals process outwith judicial review proceedings, and that it would align the Commissioner with other regulators who regulate their own compliance. With regard to the potential for the appearance of a conflict of interest to arise in such investigations, the Policy Memorandum contends that “there are

existing internal measures in place which protect the independence and impartiality of decisions and investigations.”⁵⁸ These points were also iterated by the Commissioner in written evidence.

126. Some witnesses thought the proposal was a sensible approach. Professor Dunion noted that the UK Information Commissioner has responsibility to investigate its own office.
127. However, both Transparency International UK and mySociety expressed concern about an organisation “marking its own homework”.⁵⁹
128. The Scottish Government has taken a neutral position on this proposal.
129. Ms Clark told the Committee “the view is that there would be a firewall” in how investigations are undertaken and that the proposal “would mean greater accountability and consistency” in the implementation of the FoI Act.⁶⁰

130. The Committee notes the merits of this proposal for information requesters.

131. We suggest that more detail would need to be provided on how the “firewall” within the Commissioner’s office would work in practice and whether this would be sufficient to avoid the perception of a conflict of interest.

Enforcement notices

132. Section 12 would extend the enforcement powers of the Commissioner to require compliance with the codes of practice proposed in the Bill and on the code of practice on records management set out in section 61 of the FoI Act.
133. The Policy Memorandum states the objective of the proposal is “to remove any perception that there is discretion in complying with the Codes of Practice.”⁶¹ It further states that the power to issue an enforcement notice “as a ‘last resort’, can serve to ensure a collaborative, informal route to compliance.”
134. When asked if there would be any challenges arising from the proposal, Professor Dunion said “[t]here will certainly be some up-front challenges” but he added that “the benefits will be hugely important”.⁶² He thought the proposal could be more effective for public authorities: “If we were to switch the responsibility to the code of practice, which can be nimble and applicable to the circumstances of the authority, that would be an investment well worth making.”
135. In written evidence, the Commissioner set out the actions his office may take to enforce compliance under the existing provisions of the FoI Act:

” ... while I can currently issue Enforcement Notices where an authority has failed to comply with a provision of Part 1 of the FOI Act, I cannot issue such notices in relation to breaches of the Codes of Practice – the most I can do is make an informal recommendation and rely on the good faith of the authority to follow it, or issue a more formal Practice Recommendation under section 44 of the FOI Act.⁶³

136. The Commissioner said an extension of the scope of enforcement notices to encompass compliance with the codes of practice “would be a valuable tool in helping to drive continued improvement in FOI performance across the public sector.”
137. The Minister did not support the proposal on the basis that “allowing the issuance of enforcement notices would elevate the code to the level of enforceable law”. He said there is “a clear distinction” between the statutory requirements of the FOI Act and the advisory codes of practice and that this distinction “has served us well”.⁶⁴
138. Responding about why it would be important for practice recommendations to be enforceable, Ms Clark said the proposal was an essential deterrent to ensure public authorities comply with the requirements of the legislation: “In effect, that is a way of policing the bill’s implementation.”⁶⁵

139. **The Committee notes the challenges currently experienced by the Commissioner in seeking to promote compliance with the Codes of Practice.**
140. **The Committee also notes the Scottish Government’s argument for maintaining a clear distinction between statutory requirements and the advisory code.**
141. **The Committee considers this issue would need detailed consideration by the Scottish Government, and we refer to our overall recommendations on this Bill.**

Exception from duty to comply with certain notices: repeal of the First Minister's "veto"

142. Section 13 would repeal section 52 of the FOI Act and makes consequential amendments to repeal sections 49(9) and 51(5). Section 52 of the FOI Act gives the First Minister the power to “veto” certain decisions made by the Commissioner in cases where the requested information is deemed of “extraordinary sensitivity”. This power applies only when the Commissioner has issued a decision or enforcement notice to the Scottish Administration (as defined in the Scotland Act). The decision or enforcement notice must also relate to information exempt from disclosure under [certain sections of the FOI Act](#).
143. The Policy Memorandum describes the power as giving the Scottish Ministers a “veto” over directives from the Commissioner, and it states that Ms Clark “sees no

rational argument for why this should be permitted as it undermines the entire principle of the FoI Act by enabling certain provisions to be circumvented.”⁶⁶ Noting the veto power has never been used, the memorandum considers this to be “clear evidence that there is no need for it” and that its removal would mean the FoI Act would apply to all Scottish public authorities equally. The Policy Memorandum also sets out that other legal means would remain available for the Scottish Ministers to withhold information if disclosure was deemed to be against the public interest.

144. Among those who gave evidence, there was broad support for the proposal to repeal section 52 of the FoI Act. It was noted frequently in the evidence that the power has never been used and many witnesses agreed with Ms Clark’s view that the power has therefore been shown to be unnecessary. Dr Worthy thought the current exemptions within freedom of information law to be sufficient while Dr Ferguson suggested that removing the veto would align the FoI Act with the Environmental Information Regulations (2004) which do not provide for a similar power.
145. Professor Dunion noted that, although the section 52 power “is not absolute” as the Commissioner may challenge its use in the Court of Session, he was in favour of its repeal: “I would rather that the First Minister challenge the commissioner in the Court of Session than that the commissioner be asked to challenge the First Minister in the Court of Session.”⁶⁷
146. The Law Society of Scotland was not in favour of repealing the veto power, however. In its written submission, the Society said the power “provides a necessary check” on the Commissioner and that safeguards on its use are in place, including “that a decision must be made on reasonable grounds (thereby making the veto subject to judicial review), and that the First Minister must consult with other members of the executive in taking such a decision.”⁶⁸ It continued:
 - ” In further support of this view, we note that the veto power has never been exercised previously thereby suggesting it is not a decision that is taken lightly. Alongside this, we point to the fact that this power is not exercisable under any sections of [the] 2002 Act other than information to comply with sections 29, 31(1), 32(1), 34, 36(1) or 41(b). We consider these as being sensitive sections where a discretionary power may be beneficial, particularly as section 52(2)(a) of the 2002 Act states ‘the information requested is of exceptional sensitivity’.
147. The Commissioner set out his rationale for favouring repeal of the veto power in written evidence:

” Should the public interest require that information be withheld then there are exemptions within the legislation which are available for Scottish Ministers to apply and, where Ministers disagree with the Commissioner’s conclusions on any case, an appeal can be made, as in all other circumstances, to the Court of Session on a point of law (and the Court can, surely, be trusted to address any questions of genuine sensitivity in an appropriate manner). To remove the veto would strengthen FOI law in Scotland and apply FOI law equally to all Scottish public authorities. It is only the Ministers that have this power and I do not accept, supported by investigations carried out by my office, that it is only the Ministers that hold information of sufficient sensitivity to warrant this additional power. Given its restricted remit and safeguards already within the Act to protect such information, I can only conclude that the veto is there as a political safety net.

The veto having never been used ultimately demonstrates that it serves no real purpose and I maintain the legislation does not require circumventing, and that exemptions routed in the public interest are sufficient.⁶⁹

148. In addition, the Commissioner commented that the veto power “weakens a jurisdiction’s international Right to Information (RTI) assessment score and the removal of the veto would improve the international standing and reputation of Scottish FOI law.”
149. The Minister said the Scottish Government was not persuaded by the proposal to repeal the veto power:
- ” It is important to note that it is not a carte blanche power. It is restricted to very sensitive issues, and it is extremely narrow. The fact that it has not been used does not mean that it might not be required on issues of sensitivity. Our view is that, on balance, it should be retained.⁷⁰
150. Expanding on this point, the Minister stated that, “the veto future proofs the situation”, and he gave the example of national security as an area where it could be needed. A Scottish Government official suggested international relations or investigations by Scottish public authorities as additional examples.
151. Ms Clark maintained that such examples are covered by other provisions of freedom of information legislation, and she suggested the Scottish Government could address any concerns through amendments at Stage 2. She maintained the power was not needed: “The evidence that we have taken and the views from stakeholders show that the power is not required. There is strong support for its removal.”⁷¹

152. **The Committee notes the evidence that suggests the First Minister’s veto power is an unnecessary safeguard.**
153. **The Committee is not persuaded by the Scottish Government’s argument that the power remains necessary as other safeguards are available regarding the disclosure of sensitive information.**

Failure to comply with a notice

154. Section 14 would provide for the Commissioner to refer late compliance with a decision notice to the Court of Session. This allows the Court to deal with the public authority as if it has committed a contempt of court.
155. The Policy Memorandum explains that decision notices may currently be referred to the Court of Session only where a public authority fails to take the action specified in the notice. The memorandum sets out the consequent practical enforcement issue the proposal would resolve:
- ” In practice, this can result (and has in the past resulted) in the Commissioner spending public money on legal fees to commence the certification procedure, only for the authority to comply late, at which point the Commissioner can no longer pursue the matter. To avoid this happening in the future, the Commissioner should be able to certify to the court failures to comply with the timescales set in Decision Notices.”⁷²
156. Professor Dunion considered this proposal, among others relating to the Commissioner’s powers, to be “a sensible tightening up of the enforcement powers, in the light of experience.”⁷³
157. The Commissioner considered the current situation of late compliance to be “really frustrating” and that it was a result of “an omission in the drafting” of the FoI Act. Noting that the provision was included in the Freedom of Information Act 2000, the Commissioner stated “it was just forgotten about in the Scottish act” and that the proposal “tidies things up to sort that out.”⁷⁴
158. Expanding on how the proposal would work in practice, the Commissioner said:
- ” I should add that we are not going to report someone to the Court of Session because they are late by a few days. We have to be pragmatic and sensible about it, acting according to the circumstances. However, as a backstop, public authorities need to understand that there are consequences to not complying with the law. At the moment, they know that they do not have to comply.”
159. The Scottish Government said it was not persuaded by this proposal on the basis that it was unclear on “what practical end would be achieved by continuing to pursue an authority through the Court for late compliance with a Decision Notice, after the substantive actions required by that Notice had in fact been taken.”⁷⁵ It said further consideration was needed on the implications of the proposed change.
160. Ms Clark said the proposal “is another provision that is intended to be a deterrent and to help drive organisations to deliver on their legal functions and statutory obligations.”⁷⁶

- 161. The Committee notes the Commissioner’s arguments in favour of this proposal. We think the Commissioner should be better equipped to compel public authorities to comply with a decision notice on time, but we agree with the Scottish Government that further consideration is needed on the**

possible implications.

Other provisions

Freedom of Information officers

162. Section 16 would insert a new Part 6A into the FoI Act to provide for a statutory requirement for all public authorities subject to the FoI Act to designate a freedom of information officer. The proposed amendment to the FoI Act sets out the requirement to designate a freedom of information officer in a new section 61A, the expected position of the officer within the public authority in a new section 61B, and the tasks of the officer in a new section 61C.
163. The Policy Memorandum states the objective of this proposal “is to embed a professional culture, underpinned by sufficient resource and authority, within organisations when it comes to handling requests and publishing information.”⁷⁷ The Policy Memorandum also says Ms Clark “believes there is clear and evidenced modelling behind this proposal” with reference to the existing requirements for records management and data protection.
164. This section of the report considers the views of stakeholders in relation to the purpose and function of the proposed role of freedom of information officer. Comments and concerns relating to the resource implications for public authorities are set out in the section on the costs associated with the Bill.
165. Respondents to the call for views were generally supportive of the proposal and that the role should have sufficient power and authority within an organisation. Many cited in support of the proposal the requirements for public authorities to identify an individual responsible for records management under the Public Records (Scotland) Act 2011, and to appoint a data protection officer under the UK GDPR.
166. Some witnesses suggested the statutory requirement for freedom of information officers would help promote a culture change within public authorities in their approach to freedom of information. Professor Dunion, for instance, referred to the influence freedom of information officers may have on organisations’ use of electronic communications: “Professional discipline needs to be instilled, and having an FOI officer and a good records manager will be hugely important in helping to bring that about. It will help to instil professionalism in the exchanges that take place.”⁷⁸
167. It was anticipated that, for many public authorities, the role of freedom of information officer could be undertaken by the same individual who is the data protection officer and that this combining could benefit the standing of information management within organisations. Dr Ferguson said that “although those roles are separate and have separate aims, they are, in a way, two sides of the same coin”. She went on to say:

” Combining the roles would show that this was not just about data protection but about proactively providing public access to information. It could reinforce and strengthen the role of information management in an organisation, especially given that things are moving on, technologically. It is important to have those roles and to retain them, so such an approach could strengthen things in that regard.⁷⁹

168. The Commissioner’s office indicated in its written submission that it supported freedom of information having “dedicated resource” within a Scottish public authority. It also noted that the status of freedom of information officers could be enhanced through non-statutory means “such as appropriate revisions to the Section 60 Code of Practice.” In oral evidence, the Commissioner said he was “fairly sanguine” about the potential benefits of the provision. He thought it could provide “equality of arms” for freedom of information officers with regard to data protection officers and thereby “give the freedom of information function in organisations clout.”⁸⁰
169. The Scottish Government, in its memorandum on the Bill, stated it considers the proposal “could have merit in enhancing the status of FOI compliance functions within public sector organisations”.⁸¹ It went on to state the Scottish Government has taken a neutral position on the proposal as it has not yet carried out a full impact assessment.
170. Ms Clark told the Committee the proposal “comes from FOI officers themselves” and that the absence of statutory authority for freedom of information officers means “it is sometimes very difficult for them to get their organisation to comply” with the FoI Act.⁸² She said that freedom of information officers “believe that, if they had the same statutory footing for freedom of information as they have as data protection officer, they would be able to perform their functions better.”

171. **The Committee sees merit in this proposal as a way to support culture change and to improve the standing of freedom of information compliance in public authorities.**
172. **The Committee thinks freedom of information officers must have statutory authority within their organisations in order to support that objective.**
173. **The Committee refers to the evidence, discussed later in this report, on the financial memorandum regarding the resourcing of this position by public authorities.**

Disclosure of information to Audit Scotland

174. Section 17 would amend section 63 of the FoI Act to enable the Commissioner to disclose information to Audit Scotland where the information is relevant to Audit Scotland’s statutory functions under the Public Finance and Accountability (Scotland) Act 2000.

175. The Policy Memorandum explains the purpose of this proposal “is to ensure the annual audit of Scotland’s largest public sector organisations is joined up across regulators.” The Memorandum further states that Ms Clark “believes Audit Scotland has a role in maintaining a culture and practice of compliance with the FoI Act.”⁸³
176. In oral evidence, the CFoIS argued that “an explicit duty should apply” to the Commissioner to share relevant information with Audit Scotland: “It helps to understand the rules in advance – for example, in legislation – and for the public to be reassured that there will be a flow of information.”⁸⁴
177. In its memorandum, the Scottish Government said it was not persuaded of the need for the proposal, noting it had “concerns about the apparent breadth of the measure as introduced.”⁸⁵

- 178. The Committee thinks there is merit in adding Audit Scotland to the list of public bodies to which the Commissioner may disclose information.**
- 179. We note Members would have opportunity to consider the breadth of the proposed measure should the Bill progress beyond Stage 1.**

Offence of altering records with intent to prevent disclosure

180. Under section 65(1) of the FoI Act, it is a criminal offence to alter, deface, block, erase, destroy or conceal information with intent to prevent disclosure following an information request being made.
181. Section 18 of the Bill would amend section 65 of the FoI Act to allow prosecutions for destroying records with intent to prevent disclosure, without the requirement of an information request to have been submitted.
182. The Policy Memorandum states Ms Clark’s objective “is to tighten the FoI Act and close loopholes given what has been learned from practice” and that she “believes recent high-profile cases shows the need to strengthen enforcement in this area”.⁸⁶ The Policy Memorandum further states the provision “explicitly lays out that attempts to delete or evade publication of information, which requestors have an unequivocal right to access, is a prosecutable offence, and this offence applies to both the public body and the staff member under its instruction.”
183. Most respondents to the call for views were supportive of this proposal. Several suggested that electronic communications had created more opportunity for avoidance of information disclosure. For example, the Scottish Trades Union Congress and Unite indicated there are “clear issues” and “evidenced problems” with deletion of messages.⁸⁷ In oral evidence, the RMT said “[t]here must be consequences for actions and omissions” and that public authorities should be anticipating that information requests would be made about their organisations’ work.⁸⁸
184. The Committee also heard a number of concerns about this proposal. Several

stakeholders suggested it could result in public authorities over-retaining data to avoid prosecutions, and that this could lead to both increased costs for storage and greater risk of cyberattacks or data breaches. Glasgow City Council, for example, stated that data protection principles could be undermined and thought the proposal was not a proportionate solution. SHEIP expressed similar concerns and added that increased retention of data may lead to less efficient records management by organisations which, in turn, could increase the cost of responding to information requests.

185. Stakeholders also had concern about the lack of detail in the Bill on how an intent to prevent disclosure would be determined. Professor Dunion observed that the proposed offence “would be a novel provision” and he said “[i]t would be useful to know more of the specific circumstances which might give rise to prosecution.”⁸⁹ Noting that deletion of information is a part of records management policy, the Law Society of Scotland said this provision could produce uncertainty and undermine good practice in records management and the objectives of freedom of information legislation. These points were echoed by a number of other stakeholders.
186. In written evidence, the Commissioner’s office said the proposal “would clearly serve to strengthen and enhance the culture and approach [of] openness, transparency and accountability within Scottish public bodies.” It said there was currently “a gap in the legislation which may be open to exploitation”. It also suggested that the provision would have “heavy regard” to the duties of public authorities under the Public Records (Scotland) Act 2011.⁹⁰
187. The Commissioner described the provision as “a backstop to make sure that people clearly understand the parameters of the legislation” and he told the Committee he wanted “to give reassurance ... that there is a very high threshold for showing intent”:
- ” The concern with the provision has been about conflict with records management and that we could end up not deleting records. People should have no fear of that, because if they have a records management plan, there would clearly be no intent to evade freedom of information by deleting records; they would just be following the plan. If people are doing everything normally, even outwith a records management plan, they will not meet the threshold unless somebody else says, “They destroyed that information because they wanted to avoid FOI, and I heard them say so.” That is the kind of threshold that we are talking about. There are very few circumstances that meet that threshold.⁹¹
188. The Scottish Government stated its opposition to this proposal on the basis that it considers the existing provisions of the FOI Act to “strike an appropriate balance” between holding authorities accountable for intentional destruction etc. “without creating concern about potential prosecution in relation to the routine deletion of information.”⁹²
189. The Minister also told the Committee that the Freedom of Information (Amendment) (Scotland) Act 2013 “made a number of changes to ensure that the law was working well, including changes to ensure that the offence of altering records with the intent to prevent disclosure was enforceable, and to enable earlier release of

historical records.”⁹³

190. Ms Clark said the provision was intended to be a deterrent and would not apply retrospectively. When asked if the provision might make public authorities feel compelled to retain all information in anticipation of potential information requests, Ms Clark referred to the publication codes which “would make clear to a local authority what information they would require to keep or to publish” and that “it would be an extreme set of circumstances” that would lead to a prosecution.⁹⁴

Time limit for proceedings

191. Section 19 would amend section 65A of the FoI Act to change the time limit for bringing a prosecution for destroying information to prevent disclosure to three years from the beginning of a criminal investigation. Currently, the time limit is three years from the date of the alleged offence.
192. The Policy Memorandum says the reason for this proposal “is that the last date on which the offence was committed may not be detected for a considerable time” and that, for cases of continuous contravention, the requirement for a complaint to specify the entire period of the offence “is practically an impediment to the effective use of the provision.”⁹⁵
193. The Commissioner said there was a challenge of investigations being “strictly time limited”, and he argued the provision would be “a more pragmatic way of dealing with a time bar ... because inquiries are sometimes made years after.”⁹⁶ He agreed the proposal reflected the high threshold of evidence required to prove a potential offence.
194. In its memorandum, the Scottish Government said it was not persuaded the proposal was proportionate.

195. **The Committee notes that stakeholders had mixed views on this proposal. While the Committee is sympathetic to the objective of promoting a culture of openness and accountability within public bodies, we are not convinced that this proposal is an appropriate or proportionate approach.**

196. **We consider the proposal is not sufficiently clear on the threshold for establishing intent to prevent disclosure, and we are mindful of the uncertainty that this provision could create for public authorities with regard to their records management policies.**

Costs associated with the Bill

197. The Parliament’s Standing Orders require that each Bill must be accompanied by a Financial Memorandum which sets out the “best estimates of the costs, savings, and changes to revenues to which the provisions of the Bill would give rise, and an indication of the margins of uncertainty in such estimates.”

198. The Financial Memorandum sets out the estimated costs associated with the provisions of the Bill. The memorandum from the Scottish Government also contains commentary on the estimates set out in the Financial Memorandum and sets out some suggested alternative costings. The Scottish Government is of the view that the Financial Memorandum underestimates the costs associated with the Bill.

Costs for designated bodies

199. The Financial Memorandum notes the current cost of administering the FOI Act differs between public authorities, depending on “the efficiency of the response procedures and to the time dedicated to FOI compliance.”⁹⁷
200. In relation to the Bill, the Financial Memorandum estimates the overall annual cost for newly designated public authorities would be between £500,000 and £2 million, and from zero up to £79,171 for bodies that are already designated. The annual cost for publicly owned companies that would be designated under section 3 is estimated at between £41,840 and £128,171.
201. These costs relate principally to responding to requests for information (from £2,000 to £50,000) and to “employing” freedom of information officers (from £39,840 to £78,171). Additionally, existing bodies are estimated to spend up to £1,000 for training on compliance with the section 1 duty to apply a presumption in favour of disclosure. A breakdown of these costings is set out in table 6 of the Financial Memorandum.
202. However, the Financial Memorandum states that, for some bodies, the Bill’s provisions on proactive publication would reduce the costs of compliance with freedom of information legislation: “This Bill will lead to savings for bodies who are currently designated by greater use of proactive publication with streamlined processes.”⁹⁸
203. A number of stakeholders disagreed with the Financial Memorandum’s cost estimates, arguing that the costs on public authorities had been understated and that the assumptions regarding the potential for savings were overstated. The Law Society of Scotland said the provisions for the section 18 offence and a proactive publication duty “will likely have a negative financial impact on both large and small public authorities” on account of an “increased administrative burden of having to keep large volumes of data which could ultimately lead to compliance issues without proper support or funding”.⁹⁹
204. Several public authorities expressed concerns about the potential impact on their resources. South Lanarkshire Council thought the Financial Memorandum showed an “apparent lack of appreciation and understanding about the current cost and resource implications of FOISA” and that more consideration needed to be given to the operational and financial implications on public authorities to meet the Bill’s obligations.¹⁰⁰ Glasgow City Council said the proposed proactive publication duty was “not resource neutral”, and it suggested provision of an indicative draft of the code of practice could help quantify the potential resourcing implications:

- ” At the moment, I am saying that there would be a resource implication. I cannot quantify that, because I do not know what volume of information we would be expected to publish proactively, the frequency of updating, the structure of that data and so on. There is a huge number of unknowns, and having an indicative code of practice would allow us to come back to you with a more detailed response and say, “If we’re expected to produce that, our analysis is that annual running costs would be this amount.” We would also be able to say, “We’ve had this many FOI requests that would have been addressed by proactive publication, so the reduction in FOI numbers would be X.” However, I cannot do that now. We could produce that information if we had a better idea of what was expected of us under the provision.¹⁰¹
205. Glasgow City Council, among others, also challenged the suggestion that the proactive publication duty would lead to savings by way of reducing the incidence of information requests, stating that this assumption was “without any evidence.”¹⁰² Dumfries and Galloway Council said any savings “are speculative and likely modest.”¹⁰³
206. Regarding the proposed role of freedom of information officer, a number of bodies thought this provision may be particularly burdensome for smaller public authorities. Dr Ferguson and SHEIP raised the possibility of an exemption being made for smaller organisations.¹⁰⁴ Some stakeholders questioned the feasibility of the role being fulfilled by existing staff, while NHS Forth Valley noted the Bill did not provide detail on the knowledge, skills, qualifications or training that the role could require.¹⁰⁵
207. In its memorandum on the Bill, the Scottish Government made similar points about the potential impact on designated bodies. It disagreed with the expectation that public authorities would meet any additional costs of compliance through their existing budgets, stating instead that such costs would ultimately be funded by the Scottish Government.¹⁰⁶
208. However, the Committee also heard evidence that stressed the potential financial and cultural benefits that could be delivered by the Bill and freedom of information reform more broadly. Dr Worthy thought the Financial Memorandum may “overestimate” the Bill’s costs, and he commented in oral evidence that discussions about the costs of compliance can “feed the narrative that freedom of information is somehow a burden rather than a democratic right.”¹⁰⁷ He went on to speak of the “hidden benefit to the introduction and pushing of freedom of information”:
- ” Freedom of information, of course, saves money by catching poor behaviour or exposing accountability when money is being misspent. However, it has another, more subtle effect, which is that the possibility of someone asking a question, rather than someone actually asking it, can itself discipline and stop poor behaviour. The extension to new areas could have all sorts of hidden behavioural benefits.
209. The Commissioner acknowledged the proactive publication duty may have “an initial administrative cost” but argued that it could lead to savings for public authorities by “reducing the administrative costs associated with request handling

and supporting better engagement with service users.”¹⁰⁸ Setting out the potential benefits of freedom of information reform in his written submission on the financial memorandum, the Commissioner stated that “although FOI does bring cost implications, it should be noted there are clear and substantial public interest benefits arising from many of the proposals set out in the Bill.”

210. The Commissioner also challenged the Scottish Government’s view that designated bodies would be unable to absorb additional costs of compliance and training through their existing budgets.
211. Regarding the estimated costs to his own office, the Commissioner said these were accurately reflected in the Financial Memorandum.
212. Ms Clark reiterated that “the intention of the bill is to effect a culture change with regard to proactive publication, and the view is that that will reduce costs.”¹⁰⁹ She recognised that there would be costs for newly designated bodies and that the costs for each designated body will vary.
213. Ms Clark said she hoped that the provisions for a proactive publication duty and a code of practice would ultimately reduce the costs of compliance for designated bodies on account of the standardisation of publication requirements and a reduction in the number of information requests.

214. The Committee notes the differing views as to the quantification of the costs that would be associated with the Bill. We recognise that the range of costs and the degree of certainty with which they may be estimated is not a simple exercise.

215. Where the Financial Memorandum identifies the potential for savings to be realised, the Committee finds that these references are largely speculative and are not supported by estimates or a timeframe over which savings may be realised. As such, the Committee does not have information available to it that would allow it to provide assurance to the Parliament that the Financial Memorandum presents a full and accurate picture of the financial implications of the Bill.

Overall conclusions

216. **The Committee is persuaded that legislation is now needed to update the freedom of information regime in Scotland.**
217. **The current freedom of information regime was introduced at a time when information was created, managed and published in a very different way than it is now. The issues explored by the Committee on the Bill's proposals relating to proactive publication and the replacement of the model publication scheme illustrate these differences.**
218. **However, we are not of the view that this Bill, taken in its entirety, is the correct legislative vehicle for that update. There are elements of the Bill where we do not consider the policy intention would be delivered by the Bill or where the necessity and effect of making legislative provision is not clear. These areas are identified in our recommendations throughout this report**
219. **The Committee notes the differences in cost estimates presented in the Financial Memorandum prepared by the Member and by the Scottish Government. Given the range and sizes of bodies falling within freedom of information at present, the Committee also recognises the challenges of calculating accurate estimates for both costs and savings. The Committee does not consider that the information available to it, and to the Parliament, is sufficient to be able to assess the overall potential financial impact of the Bill.**
220. **Given the questions that we consider remain to be answered and the further policy development and textual amendments that would be necessary, the Committee considers that it is highly unlikely that there is time available in the remainder of this Session for the Bill to reach a point where, subject to the agreement of the Parliament, it could be enacted.**
221. **The work undertaken by the Member in developing this Bill, alongside the evidence provided by stakeholders at Stage 1, has been valuable in highlighting that there is a need for reform of freedom of information legislation in Scotland. Freedom of information is a fundamental part of the delivery of public services and of the accountability of public bodies to the people they serve. Updating the legislation underpinning that regime is a substantial and complex endeavour and good faith efforts to do so should be recognised as such.**
222. **Overall, the Committee is of the view that the Scottish Government ought to be taking legislative action to develop an updated and forward-looking freedom of information regime, particularly given its own view that it has a "breadth of expertise and input" and "strong ministerial interest" in the designation of bodies under the Fol Act.**
223. **Yet, based on the evidence heard, the Committee notes that the Scottish Government has been slow in exercising its powers under the Fol Act. In its**

response to its own consultation on access to information rights, the Government indicated that it “believes that the fundamentals of the access to information rights regime... remain fit for purpose”. We are of the view that there is a fundamental conflict of interest within the institution of government when it comes to reform of the freedom of information regime.

224. We consider, therefore, that if the Scottish Government does not, as an institution, see the need for an updated freedom of information regime, a committee bill may be the most appropriate legislative vehicle to address the complex and important question of freedom of information reform. In making this recommendation, the Committee recognises both that it cannot commit the next Parliament to any course of action and that the work of developing such a committee bill would require significant parliamentary time and resource.
225. The Committee agrees with the need for freedom of information reform but, for the reasons set out in this report, we do not consider this Bill to be the most effective vehicle to deliver the necessary change. The Committee therefore does not recommend that the Parliament agrees to the general principles of the Bill.

Annexe A- Extract from the Committee's minutes

[13th Meeting, 2025, \(Session 6\), Thursday 4 September 2025](#)

Freedom of Information Reform (Scotland) Bill - The Committee considered and agreed its approach to consideration of the Bill at Stage 1. The Committee also agreed to consider evidence heard and its draft Stage 1 report in private at future meetings.

[20th Meeting, 2025, \(Session 6\), Thursday 6 November 2025](#)

Freedom of Information Reform (Scotland) Bill - The Committee took evidence on the Bill at Stage 1 from Dr Ben Worthy, Reader in Politics and Public Policy, Birkbeck College, Dr Erin Ferguson, Lecturer in Law, University of Aberdeen and Professor Kevin Dunion;

and then from

Juliet Swann, Nations and Regions Programme Manager, Transparency International UK, Alex Parsons, Senior Researcher, mySociety/WhatDoTheyKnow.

[21st Meeting, 2025, \(Session 6\), Thursday 13 November 2025](#)

Freedom of Information Reform (Scotland) Bill - The Committee took evidence on the Bill at Stage 1 from Gordon Martin, Regional Organiser and Lead Officer for CalMac Ferries, National Union of Rail, Maritime and Transport Workers (RMT), Dr Kenneth Meechan, Head of Information and Data Protection Officer, Glasgow City Council;

and then from

Chris Milne, Former Chair, Scottish Higher Education Information Practitioners (SHEIP) Group and Fiona Stuart, Privacy sub-committee member, Law Society of Scotland.

[22nd Meeting, 2025, \(Session 6\), Thursday 20 November 2025](#)

Freedom of Information Reform (Scotland) Bill - The Committee took evidence on the Bill at Stage 1 from David Hamilton, Scottish Information Commissioner, and Paul Mutch, Deputy Head of Policy and Information, Scottish Information Commissioner;

and then from

Graeme Dey, Minister for Parliamentary Business and Veterans, Jill McPherson, Head of Freedom of Information Unit and Ross Grimley, Lawyer, Legal Directorate, Scottish Government.

[23rd Meeting, 2025, \(Session 6\), Thursday 27 November 2025](#)

Freedom of Information Reform (Scotland) Bill - The Committee took evidence on the Bill at Stage 1 from—Katy Clark, Member in charge of the Bill, Scottish Parliament and Carole Ewart, Director, Campaign for Freedom of Information in Scotland (CFoIS).

[2nd Meeting, 2026, \(Session 6\), Thursday 15 January 2026](#)

Standards, Procedures and Public Appointments Committee

Stage 1 report on the Freedom of Information Reform (Scotland) Bill, 2nd Report, 2026 (Session 6)

Freedom of Information Reform (Scotland) Bill -The Committee considered a draft Stage 1 report.

[3rd Meeting, 2026, \(Session 6\), Thursday 22 January 2026](#)

Freedom of Information Reform (Scotland) Bill - The Committee considered and agreed a revised draft Stage 1 report.

- 1 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 2 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 3 Professor Kevin Dunion. (2025). [Written evidence](#).
- 4 Dr Erin Ferguson, University of Aberdeen. (2025). [Written evidence](#).
- 5 Scottish Information Commissioner. (2025). [Written evidence](#).
- 6 The Scottish Government. (2025, 13 November). [Memorandum on the Freedom of Information Reform \(Scotland\) Bill](#).
- 7 Standards, Procedures and Public Appointments Committee. (2025, 27 November). [Official Report](#).
- 8 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 9 The Scottish Government. (2025, 13 November). [Memorandum on the Freedom of Information Reform \(Scotland\) Bill](#).
- 10 Standards, Procedures and Public Appointments Committee. (2025, 20 November). [Official Report](#).
- 11 Standards, Procedures and Public Appointments Committee. (2025, 27 November). [Official Report](#).
- 12 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 13 Campaign for Freedom of Information in Scotland. (2025, 8 December). [Written evidence](#).
- 14 Standards, Procedures and Public Appointments Committee. (2025, 6 November). [Official Report](#).
- 15 Standards, Procedures and Public Appointments Committee. (2025, 13 November). [Official Report](#).
- 16 Standards, Procedures and Public Appointments Committee. (2025, 13 November). [Official Report](#).
- 17 Standards, Procedures and Public Appointments Committee. (2025, 20 November). [Official Report](#).
- 18 Standards, Procedures and Public Appointments Committee. (2025, 20 November). [Official Report](#).
- 19 Standards, Procedures and Public Appointments Committee. (2025, 27 November). [Official Report](#).

- 20 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 21 Standards, Procedures and Public Appointments Committee. (2025, 20 November). [Official Report](#).
- 22 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 23 Standards, Procedures and Public Appointments Committee. (2025, 6 November). [Official Report](#).; Dr Sean Whittaker, University of Otago. (2025). [Written evidence](#).
- 24 Dr Erin Ferguson, University of Aberdeen. (2025). [Written evidence](#).
- 25 mysociety. (2025). [Written evidence](#).
- 26 The Scottish Government. (2025, 13 November). [Memorandum on the Freedom of Information Reform \(Scotland\) Bill](#).
- 27 Standards, Procedures and Public Appointments Committee. (2025, 27 November). [Official Report](#).
- 28 The Scottish Government. (2025, 13 November). [Memorandum on the Freedom of Information Reform \(Scotland\) Bill](#).
- 29 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 30 Standards, Procedures and Public Appointments Committee. (2025, 6 November). [Official Report](#).
- 31 Scottish Environment Protection Agency. (2025). [Written evidence](#).
- 32 Standards, Procedures and Public Appointments Committee. (2025, 13 November). [Official Report](#).
- 33 Law Society of Scotland. (2025). [Written evidence](#).
- 34 Standards, Procedures and Public Appointments Committee. (2025, 20 November). [Official Report](#).
- 35 Standards, Procedures and Public Appointments Committee. (2025, 20 November). [Official Report](#).
- 36 Minister for Parliamentary Business and Veterans. (2025, 5 December). [Written evidence](#).
- 37 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 38 Standards, Procedures and Public Appointments Committee. (2025, 20 November). [Official Report](#).
- 39 The Scottish Government. (2025, 13 November). [Memorandum on the Freedom of Information Reform \(Scotland\) Bill](#).

- 40 Standards, Procedures and Public Appointments Committee. (2025, 27 November). [Official Report](#).
- 41 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 42 Standards, Procedures and Public Appointments Committee. (2025, 13 November). [Official Report](#).
- 43 Bòrd na Gàidhlig. (2025). [Written evidence](#).
- 44 Standards, Procedures and Public Appointments Committee. (2025, 6 November). [Official Report](#).
- 45 Standards, Procedures and Public Appointments Committee. (2025, 13 November). [Official Report](#).
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- 49 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 50 Professor Kevin Dunion. (2025). [Written evidence](#).
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- 52 The Scottish Government. (2025, 13 November). [Memorandum on the Freedom of Information Reform \(Scotland\) Bill](#).
- 53 Standards, Procedures and Public Appointments Committee. (2025, 27 November). [Official Report](#).
- 54 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 55 Scottish Information Commissioner. (2025). [Written evidence](#).
- 56 Standards, Procedures and Public Appointments Committee. (2025, 20 November). [Official Report](#).
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- 58 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).

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- 64 Standards, Procedures and Public Appointments Committee. (2025, 20 November). [Official Report](#).
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- 66 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 67 Standards, Procedures and Public Appointments Committee. (2025, 6 November). [Official Report](#).
- 68 Law Society of Scotland. (2025). [Written evidence](#).
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- 72 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 73 Professor Kevin Dunion. (2025). [Written evidence](#).
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- 75 The Scottish Government. (2025, 13 November). [Memorandum on the Freedom of Information Reform \(Scotland\) Bill](#).
- 76 Standards, Procedures and Public Appointments Committee. (2025, 27 November). [Official Report](#).
- 77 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
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- 85 The Scottish Government. (2025, 13 November). [Memorandum on the Freedom of Information Reform \(Scotland\) Bill](#).
- 86 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Policy Memorandum](#).
- 87 Scottish Trades Union Congress. (2025). [Written evidence](#); Unite, Unite Glasgow/West of Scotland Community, Youth, Not for Profit Sector Branch. (2025). [Written evidence](#).
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- 97 The Scottish Parliament. (2025, 10 June). [Freedom of Information Reform \(Scotland\) Bill Financial Memorandum](#).

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- 99 Law Society of Scotland. (2025). [Written evidence](#).
- 100 South Lanarkshire Council. (2025). [Written evidence](#).
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- 103 Dumfries and Galloway Council. (2025). [Written evidence](#).
- 104 Dr Erin Ferguson, University of Aberdeen. (2025). [Written evidence](#); Standards, Procedures and Public Appointments Committee. (2025, 13 November). [Official Report](#).
- 105 NHS Forth Valley. (2025). [Written evidence](#).
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- 107 Dr Worthy, written evidence; Standards, Procedures and Public Appointments Committee. (2025, 6 November). [Official Report](#).
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