



Katy Clark MSP
Member of the Scottish Parliament for West Scotland Region

Jenni Minto MSP
Convener
Standards, Procedures and Public Appointments Committee
The Scottish Parliament
Edinburgh
E99 1SP

24th September 2026

Freedom of Information (Fol) reform in the new session of Parliament

Dear Jenni,

I want to congratulate you on your election as the Convener of the Standards, Procedures and Public Appointments Committee and I look forward to working with you in areas of common interest.

I am writing to you concerning the question of Freedom of Information (Fol) reform in this new session of Parliament and to ascertain whether what work, if any, that the Committee plans to undertake on this issue.

You will be aware that I introduced the Freedom of Information Reform (Scotland) Bill in the last Parliament which was passed at Stage 1 by MSPs on 17th February 2026. Unfortunately, due to time constraints on the parliamentary timetable, the Bill was unable to progress further through the Stage 2 process.

I understand that this is a new Parliament with a significant number of new MSPs having been elected, but I believe that successive Parliaments now have indicated support for reform of Scotland's FOI regime, and that it now falls on this Parliament to deliver. In June 2017, MSPs unanimously voted for post-legislative scrutiny of FOISA and the then Public Audit and Post-Legislative Scrutiny Committee concluded that legal reform was needed in May 2020.

You may recall that my Bill included measures which sought to improve transparency, accountability and openness of our public services here in Scotland, particularly considering the changes in the service delivery landscape which has seen a notable number of publicly-funded services now being delivered through outsourcing and privatisation.

The Bill proposed a presumption in favour of disclosure, establishing a clear legal right for individuals to receive information except in certain exempt circumstances. It contained a proposal for proactive publication, requiring public bodies to publish information regularly rather than waiting until an FOI request is received. It also

included proposals for the creation of designated FOI Officers in public bodies, like Data Protection Officers, and strengthened the enforcement powers of the Scottish Information Commissioner. Given the change in the service delivery landscape that I have already referred to, the Bill also sought to encourage the designation of further public bodies under FOISA.

These are all proposals which have broad support among Scotland's FOI community, within the public consultation which I undertook, and from the Scottish Information Commissioner David Hamilton. My approach to drafting the Bill was to ensure that it was one which could command the confidence of not just those deeply involved in the FOI community, but that of the Information Commissioner who would be responsible for enforcing its provisions.

I recognise that the previous Committee in its Stage 1 report had reservations about some of the specific proposals within the Bill as drafted, but the central conclusion of the Committee was that legislative reform of Scotland's FOI regime was needed. The Committee concluded that the Scottish Government should bring forward legislative reform, but if it failed to do so, a Committee Bill may be an appropriate alternative vehicle for reform.

Following the election, I sought a meeting with the Minister for Parliamentary Business and Veterans Jamie Hepburn to ascertain whether there was any common ground on reform that I could work with the Scottish Government on to deliver.

Unfortunately, the Minister indicated that the Scottish Government currently had no plans to legislate on FOI reform, and that their position remained relatively unchanged from when my Bill was considered at Stage 1 in the last Parliament. I think this is a disappointing position given not only the previous Committee's recommendation for legislative reform, but the broader public support and those from MSPs at Stage 1 for the principle of reform too.

I am concerned that the Scottish Government's glacial approach to FOI reform will continue despite the clear need for change given not only the changed service delivery landscape but new challenges such as AI.

I understand that while the Scottish Government has its Freedom of Information Policy Objectives for 2024 to 2026, we have seen little to no change resulting from this.

Given this is a new Committee, I would be interested to hear what approach is likely to be taken on the question of FOI reform in this Parliament. It would be useful to know if the Committee is planning to undertake any scrutiny work of the Scottish Government's current approach to Scotland's FOI regime, or if there are potential plans to pursue a committee bill should Scottish Ministers continue to fail to come forward with legislative reform.

Having some indication of the Committee's intentions and whether it may be considering a Committee Bill would be especially useful for my own considerations on whether to re-introduce my Freedom of Information Reform (Scotland) Bill.

I look forward to hearing from you on this important matter, and I am happy to engage with you and other members of the Committee further on this issue should that be helpful.

Kind regards,

Katy



Katy Clark MSP
Member of the Scottish Parliament for the West Scotland Region

Q2.08, The Scottish Parliament, Edinburgh, E99 1SP

Email: katy.clark.msp@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba