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22nd September 2026

Thank you for your letter dated 3 September, and for your congratulations on my appointment as Minister for Parliamentary Business and Veterans.

I look forward to working with the Committee across its remit in this Session, and I welcome this opportunity to update the Committee regarding progress against the Scottish Government's FOI Policy Objectives.

The Scottish Government sees FOI rights as a cornerstone of our wider commitment to openness, transparency and accountability in public life. Since the Freedom of Information Scotland Act 2002 (FOISA) and Environmental Information (Scotland) Regulations 2004 (EIRs) came into force over 20 years ago, the rights they enshrine have become an indispensable enabler of democratic scrutiny and public discourse.

We are committed to strong and effective FOI rights to enable access to information about government and public services in Scotland. As an organisation the Scottish Government's own performance against FOISA and EIRs obligations remains strong.

Workstream 1 - consideration and Use of Scottish Ministers' powers to extend coverage of freedom of information legislation

In relation to the Scottish Government's work looking at extension of FOISA to care home and 'care at home' providers (Objective 1.1), I can confirm that the commitment to consult was delivered prior to the end of Session 6 – the consultation having run from 5 January to 30 March 2026. The analysis of responses to the consultation was published by the current administration on 31 July: [Care home and 'care at home' service providers - FOISA extension: consultation analysis - gov.scot](#).

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The Scottish Government is currently considering next steps in light of the analysis. Informed by the responses, officials are currently developing recommendations for Ministers on the way forward, and have also held discussions with the Scottish Information Commissioner and his team in relation to their role in the extension process. I can assure the Committee that Ministers will update the Parliament in due course.

I recognise that there remains an outstanding need for Ministers to articulate their approach to the future use of the section 5 extension power (Objective 1.2). This may now most helpfully be done after next steps in relation to the proposed care extension have been determined. This is an area where the Scottish Government remains open to the views and input of a wide range of stakeholders, including the Committee, and I would be happy to engage with your further on it.

The Scottish Government recognises the desire on the part of a number of stakeholders to see significant further extension of FOISA to additional bodies and sectors. The Scottish Government remains open to that discussion. Our general view is that extension should be considered where there are clear grounds for concern that any model of public service delivery has left a gap in access to information rights for the public. We keep this position under review and will engage further on these questions and set out our position on the future use of the section 5 power in due course.

Workstream 2 - updating statutory guidance for Scottish public authorities

I am pleased that the commitment to revise the section 60 Code of Practice (Objective 2.1), setting out guidance for all Scottish public authorities on their FOI obligations, has been fully delivered. The new Code was published on 25 March. As promised the new Code provides – amongst other changes - updated guidance on:

- handling of requests about services delivered by outsourcing partners
- use of non-corporate platforms, and other developments in IT.
- seeking clarification.
- making the relationship between FOISA and the EIRs clearer for requesters.

The fundamental principles underpinning the Code remain as before, but it is hoped that the revised edition will provide clearer guidance for authorities.

In his evidence to the former SPPA Committee on 20 November 2026, my predecessor Graeme Dey set out that a decision had been taken to defer work on the revision of the section 61 Code of Practice on Records Management, in order to await outcomes from the Scottish Information Commissioner's ongoing intervention looking at Scottish Government communications and records.

I am aware that in his own evidence to the former Committee on 26 February 2026 the Commissioner himself reflected on the impact of resource pressures within his team on the progress of that intervention. My understanding is that progress on the communications and records intervention remains limited at the current time. The Scottish Government remains ready to engage with the communications and records intervention at the appropriate time. The Committee will be aware that the Scottish Government took a number of steps in the last session to change the way informal communication tools are used in the Scottish Government, including ending the use of WhatsApp and similar mobile messaging apps for the conduct of Scottish Government business, following a review undertaken by Emma Martins, former data protection commissioner for the Channel Islands.

Workstream 3 - maintaining full FOI coverage of public sector in Scotland

In relation to the commitment to review and update the list of bodies within Schedule 1 of FOISA I can confirm that work remains ongoing. The Scottish Government has identified a small number of entities whose FOI status may merit further consideration, and is taking forward work to look further at these. Parliament will be updated on outcomes in due course.

I have provided a short summary covering each of the FOI Policy Objectives as an Annex to this letter. I hope this is helpful to the Committee.

A handwritten signature in black ink, appearing to read 'Jamie', with a large, stylized flourish above it.

JAMIE HEPBURN

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SCOTTISH GOVERNMENT FOI POLICY OBJECTIVES 2024-26 – CURRENT STATUS

Workstream 1 - consideration and use of Scottish Ministers' powers to extend coverage of FOISA

Objective	Progress
Objective 1.1 - Develop and undertake a public consultation on extension of FOISA to care homes and 'care from home' services in terms of Scottish Ministers' power under section 5 of FOISA to extend coverage of FOI law.	The consultation was undertaken from 5 January to 30 March 2026. An analysis of responses was published on 31 July: Care home and 'care at home' service providers - FOISA extension: consultation analysis - gov.scot Ministers are currently considering outcomes and will announce next steps to Parliament in due course.
Objective 1.2 – Develop and set out a clear, structured and consistent approach to the wider use of the section 5 extension power going forward	Ministers recognise that there remains an outstanding need to articulate their wider approach to the use of the section 5 power going forward, once a decision on extension to care home and 'care at home' services has been taken. Work remains ongoing to develop this.

Workstream 2 – Updating statutory guidance for Scottish public authorities

Objective	Progress
Objective 2.1 - In consultation with the Scottish Information Commissioner - revise the section 60 Code of Practice to update guidance for Scottish public authorities. This includes, but is not limited to, updating the guidance as it relates to: • handling of requests about services delivered by outsourcing partners • use of non-corporate platforms, and other developments in IT • seeking clarification • making the relationship between FOISA and the EIRs clearer for requesters	This Objective has been fully delivered. The revised Code published on 25 March 2026: FOI/EIR: Section 60 code of practice - gov.scot

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Objective 2.2 - In consultation with both the Scottish Information Commissioner and Keeper of the Records of Scotland agree a timetable and approach for the revision and update of the section 61 Code of Practice on Records Management.	Work on this objective remains deferred pending outcomes from the Scottish Information Commissioner's intervention to support improvement in the Scottish Government's communications and records.
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Workstream 3 –

Objective	Progress
Objective 3.1 - Undertake a comprehensive review of Schedule 1 of FOISA, using the section 4 power to make appropriate updates to entities listed. This will include consideration of the status of any publicly owned companies whose status is considered to be not currently subject to FOISA, or whose status is uncertain.	Work remains ongoing to consider the need for updates to Schedule 1 of FOISA. Ministers will update Parliament in due course.

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