

T: 0300 244 4000
E: scottish.ministers@gov.scot

Martin Whitfield MSP
Convener
Standards, Procedures and Public Appointments
Committee
By email: SPPA.Committee@parliament.scot

14 January 2026

Dear Martin,

I am aware that the Committee is currently considering its Stage One report on the Freedom of Information Reform (Scotland) Bill.

I have seen the further letters submitted to the Committee by the Scottish Information Commissioner and the Campaign for Freedom of Information in Scotland following the evidence gathering sessions in November. These letters included comments on the Scottish Government's evidence on the financial impact of the Bill, as set out in paragraphs 8 to 23 of the Scottish Government's memorandum to the Committee, provided with my letter dated 13 November 2025.

As the committee considers its report, I am keen to ensure that they understand the basis of our position on the financial implications of the Bill. I am therefore enclosing a minute which considers and responds to the points made by both the Commissioner and the Campaign in this regard, and provides additional reasoning to support the Scottish Government's view of the financial implications of the Bill.

I hope the Committee find this further clarification to be of use.

I am copying this letter to Katy Clark MSP for her awareness.

Yours sincerely,



GRAEME DEY

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St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

FREEDOM OF INFORMATION REFORM (SCOTLAND) BILL

FURTHER EVIDENCE FROM SCOTTISH GOVERNMENT REGARDING FINANCIAL IMPLICATIONS

Background

The Scottish Government notes the written submission of the Scottish Information Commissioner dated 26 November 2025 and the written submission of the Campaign for Freedom of Information in Scotland (CFOIS) dated 8 December 2025 to the Standards, Procedures and Public Appointments Committee, regarding Freedom of Information Reform (Scotland) Bill.

Both written submissions highlight the concerns of their respective authors regarding the Scottish Government's comments on the Financial Impact of the Bill, as set out in paragraphs 8 to 23 of the Memorandum provided to the Committee on 13 November 2025, by the Minister for Parliamentary Business and Veterans.

The Scottish Government considers that it may be helpful to the Committee for it to respond specifically to the concerns raised, setting out more fully the basis on which the Scottish Government costing estimates have been arrived at.

Training Costs

In his letter to the Committee dated 26 November the Commissioner indicates that additional training could largely be delivered under existing Section 60 Code obligations and therefore should not incur significant cost. In its submission dated 8 December, CFOIS makes a similar claim regarding the financial impact of training.

The Section 60 Code establishes good practice guidance, requiring authorities to ensure staff have sufficient knowledge and provide refreshers; however, the Bill introduces new statutory duties that extend beyond current practice, including:

- A legal duty of proactive publication under an enforceable Publication Code.
- Designation of FOI Officers with defined responsibilities.
- Enhanced compliance monitoring and governance requirements.

The estimated cost of **£7,000 per organisation** reflects:

- Specialist FOI Officer training ([market rates](#) typically £1,300 - £2,000 per delegate).
- Development of tailored e-learning modules and refresher workshops.
- Delivery across geographically dispersed and large organisations requiring blended approaches.

Stakeholder feedback supports this position. For example:

- The **Law Society of Scotland** highlighted potential compliance risks without adequate resourcing.
- **South Lanarkshire Council** raised concerns about underestimating operational requirements.

In this context, the assumption within the Financial Memorandum that additional training costs for local authorities or medium to large organisations would fall within £0 - £1,000 is not consistent with the scale of duties proposed. These organisations have significant staff numbers, multiple service areas, and complex structures, making a minimal cost assumption unrealistic.

Absorption of Costs by Newly Designated Bodies

The Commissioner notes that previous FOI designations were absorbed within existing structures and suggests future designations should follow suit. Previous designations largely involved bodies with established governance frameworks. The Bill's scope includes contracted service providers and smaller entities that often lack FOI readiness, such as:

- Dedicated information governance teams.
- Publication schemes or digital infrastructure for proactive disclosure.

Feedback from existing authorities such as **NHS Forth Valley** and **Glasgow City Council** indicates that even well-established bodies **anticipate resource strain** due to:

- Legacy ICT systems requiring significant effort for proactive publication.
- Questions about staffing flexibility and funding for expanded responsibilities.

If organisations with mature compliance frameworks foresee challenges, newly designated bodies with no prior FOI experience will face greater difficulty absorbing costs. The Financial Memorandum's estimate of **£41,840 - £128,171 per body for FOI Officer costs and compliance setup** reflects this reality.

Authorities' existing proactive publication and records management obligations

In its submission dated 8 December 2025, CFOIS highlights that the Section 60 and Section 61 Codes already establish good practice guidance for proactive publication and records management, and that authorities are required by law to maintain a publication scheme. It is suggested that the Scottish Government has failed to take account of this in its assessment of the financial implications of the proposed reformed proactive publication requirements in the Bill.

The Scottish Government does not accept this. The frameworks set out in the Section 60 and Section 61 Codes are advisory and do not impose enforceable statutory duties.

It is recognised that in relation to records management in particular many authorities are also required to adhere to the requirements of the Public Records (Scotland) Act 2011 (PRSA).

Whilst the duty to maintain a publication scheme is a statutory requirement, it creates only a limited duty for authorities to publish specific categories of information about their work. The Bill proposes moving from the current publication scheme requirement to a legal duty to publish information (new sections 60A and 60B), supported by a legally enforceable Code of Practice set by the Commissioner. The proposed change responds to concerns that the existing publication scheme requirement is often treated as a “tick-box” exercise, with inconsistent performance against specific classes of information.

Section 15 of the Bill introduces a duty to proactively publish and requires information to be organised, kept up to date, and made available in accessible formats, underpinned by enforceable standards.

Moving from the limited requirement to maintain a publication scheme, and the wider approaches recommended within the existing codes of practice to new mandatory standards with explicit accessibility, consistency, and digital presentation requirements will most likely require structured training, system upgrades, and dedicated capacity. These costs cannot be assumed to be absorbed within existing FOI budgets.

Delivering an enforceable duty to publish may require investment in content management systems (CMS), workflow automation, metadata tagging, accessibility compliance (including Web Content Accessibility Guidelines (WCAG) standards), and cybersecurity measures. These requirements go beyond the minimal baseline of the current scheme. Feedback from local authorities and professional bodies reinforces this position, with concerns raised about adapting legacy ICT systems and resourcing digital infrastructure.

The Section 61 Code of Practice on Records Management, alongside the requirements of PRSA, supports good practice in relation to records management within authorities. However, these do not equate to maintaining publication grade, accessible datasets and curated web content under a statutory publication duty.

Recent Scottish Government FOI investment

In its submission dated 8 December CFIOS expresses surprise at the Scottish Government’s costings in light of the Scottish Government’s own recent investment in its FOI function in response to the Commissioner’s ongoing Level 3 Intervention.

The Scottish Government's FOI Improvement Plan and related initiatives address legacy compliance issues but do not account for structural changes proposed by the Bill, including a statutory duty to publish, enforceable standards, and the proposed FOI Officer requirement. These measures are intended to embed transparency by design and reduce FOI request volumes over time. There are of course understandable and worthy aims, but would require upfront investment beyond remedial improvements.

Smaller organisations and outsourcing (Data Protection Officer parallel)

CFoIS notes that smaller bodies may outsource roles, such as that of Data Protection Officers. The Bill's FOI Officer proposal reflects existing governance models such as exist under PRSA and Data Protection law - requiring accountability and integration across internal functions. Outsourcing can support delivery, but authorities will still need internal oversight and systems integration to meet statutory requirements.

Outsourcing of the FOI Officer role may offset some staffing costs, but authorities will still incur internal time and systems costs to ensure compliance, governance, and accountability under the new duty.

Conclusion

Training, publication, and records management are recognised as baseline obligations under current guidance. The Bill proposes a statutory duty to publish, supported by an enforceable Publication Code and the introduction of a formal FOI Officer role. These measures aim to strengthen consistency, accessibility, and accountability across public authorities. These are understandable goals, but the measures proposed to achieve them do imply some financial cost.

Implementation will most likely require additional investment in training, staffing, and digital infrastructure to meet statutory requirements. Financial estimates aim to reflect the scale of these proposals and will continue to be refined in collaboration with stakeholders as implementation planning progresses.