To put views in context CFoIS was established in 1984, from work undertaken by the Scottish Consumer Council, to focus on securing a legal and enforceable right to access information so that people could find out about how they are governed and how their services are delivered. We have been involved in all the major developments of the legislation at a Scottish level and have continued to operate as a watchdog on the performance of the rights-based legislation. CFoIS is independent of government and relies on donations and income generated through training and a few specific projects funded by trade unions. You will appreciate that due to the impact of austerity, people and organisations have less money to spend on grants and donations just at a time when a critical eye is essential on the work of government and publicly funded agencies and services.

Overwhelmingly CFoIS relies on voluntary effort to sustain our work for public benefit. The right to access information in order to form an opinion is set out in a number of international treaties as well as in Article 10 of the European Convention on Human Rights (ECHR). Whilst CFoIS considers itself to be a Third Sector Organisation, we traditionally use the term ‘non-governmental organisation’ (NGO) to factually describe our status and it fits with international human rights language that specifically recognises a role for NGOs in upholding human rights, acting as an independent watchdog on government actions, instigating and inspiring change.

We invite you to raise the following issues with the Committee.

1. **Focus** - Given our remit and status, you will appreciate that we have concerns about the Committee’s apparently narrow remit to ‘explore public sector funding to third sector organisations that deliver national equalities and human rights priorities and to assess the accountability of public bodies partnering with the third sector in achieving better outcomes for those groups who have
equality needs or require support to access their rights.’ You will be aware that there is much international interest in the rise of Government Organised NGOs (GONGOs) which is a generic term to describe a wide spectrum of influence as well as direct and indirect control of NGOs.iii In Scotland there needs to be clarity that the Scottish budget should fund NGOs to be independent. A portion of their work may include delivering services for national and local government or to assist them in policy work whilst avoiding any conflict of interest in order to protect their core role in a democracy. The functions of NGOs should not be conflated with the functions of government.

2. **Rights** – From 2008 and 2011 the Scottish Information Commissioner supported the University of Strathclyde to undertake a research study, exploring how campaign groups and voluntary organisations in Scotland use freedom of information (FOI) legislation. The research was launched in response to evidence which suggested that the FOI right to information was not being used to its full potential by Scotland's voluntary and campaign organisations, with only 4% of the appeals received in 2007 by the Commissioner coming from the sector. The research identified concerns around the impact of FOI-use on funding and working relationships with public authorities. The closer their relationship with a public authority, the less likely a voluntary organisation will be to use FOI. FOI-use is more likely amongst smaller, more "independent" organisations, will less access to established communication networks.iv

3. **Post Legislative Scrutiny Freedom of Information (Scotland) Act 2002** - Given our extensive experience CFoIS is uniquely placed to provide reflective as well as informed thought about the human right to access information, to enforce that right and to cite models of better practice elsewhere. This core role of an NGO was recognised in the Committee’s 2018 report, which made 40 recommendationsv. Currently CFoIS is engaged with the Public Audit and Post Legislative Scrutiny Committee in its review of the Freedom of Information (Scotland) Act 2002 (FoISA). Concurrently CFoIS is also engaged with the Scottish Government’s consultation on increasing the number of designated organisations under FoISAvi. This is a significant workload for which there is no public funding.

4. **Changing Culture and Practice** – A cultural and operational shift are required to provide funding to NGOs from the Scottish budget, which is to fund the NGO being an NGO. In Scotland that distinctive role is increasingly less reflected in the allocation of funds. There is an opportunity for the Scottish Parliament to embark on a programme of core funding to NGOs to operate as independent watchdogs on the State, including monitoring bodies such as Commissions and Commissioners. Also, the Committee could engage with grant funding bodies to assess how far they are funding organisations to deliver core NGO activities. This will help to better understand the funding landscape for the Third Sector/NGOs in Scotland.

5. **Funding** – As we have so little money, CFoIS qualifies for free membership of GCVS which provides us with really useful and practical support. We believe it is important to acknowledge the role of TSIs in adding value to the work of NGOS.

6. **Scottish Public Information Forum (SPIF)** - SPIF is a unique model that engages rights holders, duty bearers, government and the public around a table twice a year to discuss, equally, the practical enjoyment of access to
information rights in Scotland. Learning from each other helps improve understanding and practice. SPIF’s remit is to ‘enable the long-term effectiveness of FoISA and the Environmental Information (Scotland) Regulations 2004’ (EIR(S)s) and its role is incorporated in the Scottish Government’s Six FoI principles published in 2007."\(^{vii}\) After being overlooked for 7 years, in May 2017 SPIF was reconvened by CFoIS, supported by an initial grant from UNISON Scotland, and it has continued through the support of third sector organisations which host it. Attendees include the public sector, civil society and reports are delivered by the Scottish Government and the Scottish Information Commissioner. Despite receiving no funding, CFoIS continues to organise SPIF.

We wish the Committee well in its deliberations and please contact me if you have any queries.

Yours sincerely,
Carole Ewart
Convener

\(^{i}\) For example Article 19 of the UN ICCPR at https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx


\(^{iv}\) See the Scottish Information Commissioner’s website at http://www.itspublicknowledge.info/home/SICResources/voluntarysectorresearch.aspx


\(^{vii}\) The Scottish Government website has more information http://www.gov.scot/About/Information/FOI/6principles