

**PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE**

**POST LEGISLATIVE SCRUTINY - FREEDOM OF INFORMATION (Scotland) ACT 2002**

**SUBMISSION FROM: STRATHCLYDE PARTNERSHIP FOR TRANSPORT**

**1. In your view, what effects has the Freedom of Information (Scotland) Act 2002 (FOISA) had, both positive and negative?**

SPT welcomes and supports FOISA in principle, and would make the following observations as regards its on-going value to the democratic process/empowering communities.

FOISA encourages openness, transparency, and accessibility to information, enabling greater scrutiny and thereby better government (local or national) accountability. Public authorities are held to account on the delivery and performance of public services and duties, and good practice is encouraged with the greater release of public information.

However there are some negative impacts on public bodies which should be taken into account.

- These include the impact on resources at a time of public sector budgetary constraint, and at a time when there are increasing administrative burdens and fewer resources.
- There is the potential for misuse of the legislation by certain sectors, e.g. requests for information that is already publicly available and can be easily gleaned, perhaps just not in the particular format the applicant is looking for. Some requests could be from applicants pursuing personal issues (e.g. complaints, contractual) or, indeed, unhappy with the policy outcome.
- The excessive cost of compliance limit has not been re-assessed since 2005 and should be revisited. Whilst an authority can refuse to comply with a request where the cost to the authority is likely to exceed £600 (capped at £15 per hour of staff time, so 40 hours' work), best practice could suggest that the offering of advice and assistance alone would end up with the provision of information up to a notional value of £600 e.g. on a narrowed scope. Noted that the UK legislation prescribes an hourly cap of £25 which, with a limit of £600, is 24 hours' work.
- FOISA should take greater account of security requirements. Whilst exemptions can be applied, we have found it very difficult to persuade the SIC why information which may seem on the face of it innocuous, but which has potential security implications, should be withheld.

- There should be consideration as to whether the 20 day turnover under FOISA is always practical, especially in cases of complex/voluminous requests.
- There a danger that the existence of FOISA encourages people to seek information in this format when they could more easily obtain it informally without the need for bureaucratic process. It could be suggested that a more informal approach, or not treating the request under FOISA, could give the applicant the desired result (although the counter argument could be that a formal process ensures requests and responses are recorded).

**2. Have the policy intentions of FOISA been met and are they being delivered? If not, please give reasons for your response.**

As far as SPT is aware, yes, the policy intentions have been met. The evidence we have as regards FOI requests suggests that we do deliver satisfactory responses.

**3. Are there any issues in relation to the implementation of and practice in relation to FOISA? If so, how should they be addressed?**

Our main concerns, and these are highlighted above, are with regards to resources, fees and costs limits. The 20 day turnover under FOISA is also an issue that requires further scrutiny.

**4. Could the legislation be strengthened or otherwise improved in any way? Please specify why and in what way.**

The provisions are there – SPT’s experience suggests they are robust, but with the caveats as per above.

**5. Are there any other issues you would like to raise in connection with the operation of FOISA?**

Not at present.