

**PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE
POST LEGISLATIVE SCRUTINY - FREEDOM OF INFORMATION (Scotland)
ACT 2002**

SUBMISSION FROM: The Coalition of Carers in Scotland

We welcome the opportunity to respond to the consultation the Public Audit and Post-legislative Scrutiny Committee (PAPLS) is undertaking on the Freedom of Information (Scotland) Act 2002.

We believe the FOI Act has allowed for greater transparency and accountability in relation to the information held by public bodies.

We have recently used the Act to request information from all local authority areas in Scotland on how they have directed resources towards the implementation of the Carers (Scotland) Act 2016.

In this submission we have focused on our experience of the process of submitting FOI requests and have addressed the following questions set out in the consultation:

- Are there any issues in relation to the implementation of and practice in relation to FOISA? If so, how should they be addressed?
- Are there any other issues you would like to raise in connection with the operation of FOISA?

Background

Between October and November 2018 the Coalition of Carers in Scotland submitted FOI requests to 31 local authority areas in Scotland (Stirling and Clackmannanshire was a joint submission)

All areas (with the exception of the Highlands) were sent two FOI requests, one related to funding provided by the Scottish Government in 2017/18 for preparations in advance of the commencement of the Carers Act. This funding was provided as a package of funding by the Scottish Government to Health Boards, to be directed to Health and Social Care Partnerships for allocation.

The second FOI related to funding provided to Local Authorities for the implementation of the Carers Act in 2018/19. Again the expectation was that this would be directed to HSCPs.

In total 61 FOI requests were sent.

Process of Sending the FOI requests

The process of ascertaining where to send the FOI requests was very time-consuming. While there are some websites that can assist by submitting FOI requests to multiple areas at once, since the requests we submitted contained specific information for each area, we had to source information from each local authority area and send them separately.

Each area had a slightly different process to follow, some simply gave an email address, others required you to complete a pro-forma, others provided a facility on their website.

It would be much simpler if all information was provided on a single website and the process was the same for each area, perhaps with a standard proforma.

Confusion re HSCPs

In the first instance we sent the FOI requests to each local authority FOI department, with the exception of the Highlands where we sent it to the Health Board.

In most areas this did not cause an issue, however in 4 areas our requests were returned by the local authority and we were informed that this was because the information pertained to the HSCP and not the LA. In 2 areas we were told to send it to the local Health Board, in one of these areas we were then told by the Health Board that they did not hold this information either as it pertained to the HSCP. Eventually after challenging this we were provided with an email contact within the HSCP and the information request was fulfilled.

In the other areas once the LA rejected our request, we phoned and verified who we had to send the request to, but there appeared to be some confusion around this.

The confusion seemed to arise from the fact that the resources we were enquiring about were routed through the LA in one case and HB in the other, but ultimately were allocated through the HSCP. It did not appear that HSCPs routinely deal with FOI requests, certainly there was no information online directing you to this service. However, this is likely to be an ongoing issue as more services and resources come under the responsibility of Integration Authorities and the government continues to route resources in the same way.

We recommend that clarification is sought as to who is responsible for responding to FOI requests in these circumstances.

Timescales re responding

In relation to the timescales for responding to our requests, most areas returned them within the 20 day timescale, however 14 requests were received late and 3 requests are still outstanding. The table below outlines the number of responses which we received outwith the timescale.

Response Time	Number of Late Responses
5 to 7 weeks	7
7 to 9 weeks	2
9 to 11 weeks	2
11 to 13 weeks	3
No response	3

It should however be noted that the requests were sent out in October and November, so this did include non-working days over Christmas and the New Year.

Quality of information received

A significant proportion of the answers we received were incomplete, vague or ambiguous, this made it difficult for us to analyse our results. For example, when we asked how resources had been spent, many areas replied that either decisions hadn't been reached yet, the money had been set aside, or would be offset against future costs. This was the case even when the resources were for the previous financial year.

In addition, we have evidence that some of the information we received was inaccurate. For example, in one area they said they had allocated money to a specific organisation, but when we asked that organisations they said they had not received it and did not have any knowledge of it.

One explanation for this may be that the information was based on documents, such as IJB minutes, where decisions had been made, which were subsequently overturned or not followed through.

Conclusions

Overall we are of the opinion that the Freedom of Information (Scotland) Act 2002 is an essential piece of legislation that allows for greater transparency and public accountability in relation to the information held by public bodies. The information we received from our recent requests has been extremely valuable to our organisation and our members.

We believe that the system could be simplified and streamlined by providing information on one site.

In addition, we believe there is a question around HSCPs and whether there is a need for them to have their own FOI processes or whether this responsibility sits with the lead agencies. This is something the Scottish Government may wish to clarify.

It is also our view that the Scottish Government should scrutinise the compliance with the Act, including returning requests according to the timescales set out in legislation and providing accurate and full information.

About The Coalition of Carers in Scotland

The Coalition of Carers in Scotland exists to advance the voice of carers by facilitating carer engagement and bringing carers and local carer organisations together with decision makers at a national and local level.

Since its inception in 1998 the Coalition has played a fundamental role in advancing carer recognition and support and more recently in establishing a Carers Rights agenda in Scotland.

It is our vision that carers in Scotland will achieve full recognition as equal partners in care. Carers will have the right to quality services and access to personalised support at every stage in their caring role to ensure they enjoy good health and a life outside of caring.

Through our membership we connect with carers and carer-led organisations from all local authority areas and from many different caring communities, ensuring that carers from the Borders to the Shetlands have the opportunity to have their views heard.

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