

PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE

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

SUBMISSION FROM :Scottish Legal Complaints Commission

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

There have been a number of positive outcomes of FOISA, including accountability for public bodies and a focus on improving publication schemes so that more information is readily accessible in the public domain. It has also contributed to an increased awareness within the public domain of rights in general.

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

Please see answer to question one.

We have noted in previous submissions to the Scottish Government (see papers since 2016 at <https://www.scottishlegalcomplaints.org.uk/reimagine-regulation>) that we co-regulate in the legal services sector alongside several other statutory bodies set up under Scottish Statutes that are not covered by FOISA.

This gives members of the public, and others interacting with legal regulation, a patchwork access to information and is counter the Scottish Governments own 'better regulation' principle. This is a particular problem since the process of consumer complainers means some are dealt with by us, then passed to another body, then passed back to us – we can release information on the start and end stages but they cannot access information on the middle stage. The public are often critical of the system about this, but we have to emphasise it has been Scottish Government choice of which bodies to cover and exclude, and is not something we can change other than by raising the issues for consideration in consultations such as this.

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

For a small organisation like the SLCC, the number of FOI requests received is manageable; however in practice it is possible that numerous requests can put strain on publicly funded bodies, not only in cost but also in regards to timescales. Please see answer to question 4.

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

Perhaps allowing a short extension in exceptional circumstances where it can be justified that information may take slightly longer to be made available to take the strain off public bodies who want to release the material on time but are genuinely struggling to meet targets. 20 working days is restrictive, especially given a move towards agile and flexible working practices.

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

The cost threshold has not been increased and perhaps this should be reviewed.