

PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE

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

SUBMISSION FROM : East Lothian Council

The Scottish Parliament's Public Audit and Post-legislative Scrutiny Committee (PAPLS) is undertaking post-legislative scrutiny of the FOI (Scotland) Act 2002.

Local authorities have been invited to submit written comments/views on the following questions:

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

Positive:

The act is now mature legislation and it has stood the test of time. The Act is generally working well and it has been one of a number of measures that have helped to change the culture of the public sector by enhancing transparency and openness.

It provides a means of holding public bodies to account to ensure that they act in the public interest.

Negative:

The burden on already stretched resources can be overwhelming.

Some applicants use this as a free research facility for their own personal or financial advantage e.g. journalists, solicitors, businesses and students.

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

East Lothian Council feels that in general the policy intentions of FOISA have been met.

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

The majority of FOISA requests fall under the statutory chargeable threshold meaning that the resource requirements on already stretched Council services are further adversely impacted by FOISA duties. East Lothian Council feels that serious consideration should be given to changing the charging regime. The fee threshold of £100 should be removed and fees based on cost recovery should be allowed where the cost of compliance will exceed a certain base amount, e.g. £5.00. It is not reasonable to expect Councils to fund this

increasing area of demand where front line services are facing financial pressure and service charges based on cost recovery are applied to other areas of activity.

East Lothian Council asks that consideration should be given to allowing for a possible extension to the 20 working day time frame where the volume of FOI requests received or the size of any particular individual request dictates. E.g. multiple submissions received by one individual that impacts the team's ability to respond within the timescale.

The financial implications associated with complying with FOISA requests across East Lothian Council is significant, all of which must be met within the existing reducing financial envelope which is available to Local Authorities.

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

Strengthening the legislation in regards to charging

Staff time is at present restricted to being charged at £15 where fees apply. This is an unrealistic rate given commitments to the living wage and associated on costs and means that public bodies are in effect providing a subsidised service to businesses and the public who make these requests.

If it is decided to retain a charging threshold requests received from Press and Commercial bodies should attract a lower charging threshold. This would reduce the overall number of these type of requests allowing Local Authorities to reduce the impact that FOISA requests have on staff and budget costs.

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

Nothing further.