

PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE

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

SUBMISSION FROM : NATIONAL UNION OF JOURNALISTS

The National Union of Journalists (NUJ) is the representative voice for journalists and media workers across the UK and Ireland. It was founded in 1907 and has around 30,000 members, including around 2,000 in Scotland. We represent staff and freelance journalists, as well as retired members and students. Our members work across all sectors of the industry including broadcast media, newspapers, news agencies, magazines, books, public relations, communications, online media, photographers and videographers. For the purposes of this submission it is important to note it represents not just journalists making freedom of information requests, but also communications officers tasked with answering the requests.

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

The NUJ's Code of Conduct was first established in 1936 and remains the only ethical code for journalists written by journalists. The code states as its first point that "[a journalist] at all times upholds and defends the principle of media freedom, the right of freedom of expression and the right of the public to be informed." As such, the NUJ supports provisions which enable the public to be better informed, and campaigns for the right of journalists to investigate and publish information which is in the public interest.

As such, the NUJ is supportive of the aims of the Freedom of Information (Scotland) Act (2002) and believes it has positively contributed to better reporting of information about public spending and decisions made by political representatives and public bodies.

To take just three examples, this reporting includes recent stories concerning the doubled cost to taxpayers for disposal of medical waste following the collapse of Healthcare Environmental Services; media reports on the number of assaults on NHS staff in Scotland, and reports on how Scottish Enterprise had given almost £3m of funding to arms firms which were profiting from a war in Yemen that had killed 70,000 people. These are clearly matters of public concern.

It has been agreed NUJ policy since our 2011 Delegate Meeting that the Freedom of Information Act (2000) has "brought about a profound change for the better in the political life of [the UK]", and we see the provisions and intentions of the 2002 Act in the same light.

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

While the policy intentions of the Freedom of Information (Scotland) Act (2002) are laudable in working towards a right of access to information which is straightforward, and easily implemented, the NUJ remains concerned that the day-to-day experience of its members suggests the delivery has fallen short of these ambitions.

It is of particular concern to us that Information Commissioner Daren Fitzhenry found that journalists were “significantly less likely to receive information” and suffered “unjustifiable, significant delays”. His report said “Journalists, together with MSPs and political researchers, are expressly made subject to a different process for clearance than other requester groups. This is inconsistent with the applicant-blind principle of FOI legislation. Their requests are almost invariably subjected to an additional layer of clearance which is likely to delay consideration of the case.”

In seeking Freedom of Information requests journalists are acting on behalf of the public and should not be treated as second class citizens.

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 NUJ is concerned, given ongoing cuts in the funding of public services, that the provision of handling FOISA requests will be seen as less of a priority, and that either fewer resources will be allocated, or that there will be increased calls for a standard charge for FOISA requests.

We believe that the encouragement of open and accountable government is an aim that should be shared by the news industry and by public bodies, and would oppose both attempts above.

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

The NUJ remains concerned that as council and government services are outsourced and privatised these companies are exempt from FOISA requests, despite being responsible for the fulfilling of public services. There is a serious risk that the aim of improving accountability will be severely undermined if the provision is not extended.

