

PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE

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

Extra SUBMISSION FROM: Peter Cherbi, Freelance Law Journalist

With regard to an example of a failure by the Scottish Information Commissioner to recommend an organisation (in this case the Scottish Police Federation) for FOISA compliance, I would like to submit this matter for consideration by the committee

In my role as a journalist, I was approached by persons including ex Police Officers who drew my attention to the lack of FOI compliance for the Scottish Police Federation and problems which members had experienced when attempting to make enquiries with the SPF - which – had the enquiry been via Freedom of Information legislation, would have been answered, and within a legal framework.

Noting the equivalent Police Federation of England & Wales has been FOI compliant for some time, I approached the Scottish Information Commissioner with a request the Commissioner look to recommend compliance for the Scottish Police Federation – given various transparency issues which had been brought to my attention, and the fact the equivalent Police Federation of England & Wales was already FOI Compliant.

However, while initially the SIC made what appeared to be a policy statement via twitter that they would “add it to the list of bodies to propose to ministers” on 18 May 2017 via twitter twitter.com/FOIScotland/status/865234073316470785 - further communications between myself and the SIC saw the Scottish Information Commissioner retreat from their earlier position.

A further chaser to the SIC on recommending compliance for the SPF then saw the SIC claim it was under-resourced, and could not undertake the work (although the SIC had written in considerable length on the issue to myself).

Ultimately the SIC then suggested I personally make a recommendation to Scottish Ministers on the matter – however, given what has already been learned in terms of how the Scottish Government treat such requests, and indeed my own experience of Freedom of Information compliance with the Scottish Government, a recommendation from myself as a journalist was unlikely to carry the same weight as one from the Scottish Information Commissioner.

The material accumulated as part of my research, including FOI disclosures from the Scottish Government, and contact with the Scottish Information Commissioner - is published online here: [//petercherbi.blogspot.com/2018/02/probe-fed-calls-for-holyrood-to-probe.html](http://petercherbi.blogspot.com/2018/02/probe-fed-calls-for-holyrood-to-probe.html)

Given the Scottish Police Federation were in receipt of some £374,000 a year of public funds – an additional matter drawn to my attention by serving & former Police officers, I then sent FOI requests to the Scottish Government and took up the issue – noting that since the SPF was in receipt of public funds, this was an additional reason to bring the organisation within FOISA.

However, it is worth noting after I began to raise the issue with the Scottish Information Commissioner on social media, and some days after I approached the SIC with regards to recommending SPF compliance with FOISA the General Secretary of the SPF wrote to the Scottish Government and requested cancellation of the public cash grant.

It is difficult to conclude the raising of FOI compliance with the SIC, and the SPF's decision to cancel the £374,400 public cash grant – all occurring within the same week - is a coincidence.

I feel the Committee should look into this matter, as an example of the process of recommending organisations for FOISA compliance.

And perhaps with the question of public funds to the Scottish Police Federation, and the notable request by the SPF for withdrawal of the public cash grant - only days after the issue of FOI compliance was raised publicly, there may be issues which the Committee may wish to explore further.