

Freedom of Information – extension of coverage

Overview

<i>General Comments</i>
Scottish Water welcomes the open dialogue enabled by the consultation

Detailed Response

Specific Comments

1	Do you think that the Scottish Ministers should extend the Freedom of Information (Scotland) Act 2002 to organisations that provide services on behalf of the public sector?
Yes No Unsure X	
2	Which services provided on behalf of the public sector by organisations should be considered for extension?
<i>For the services that you identify, you may wish to give examples of organisations that provide the service (e.g. "Company X") or to describe types of organisations that provide it (e.g. "every person who has a contract with Authority Y to provide service Z")</i> n/a	
3	Are there any services provided on behalf of the public sector by organisations that you think should be excluded from consideration?
Yes - X <i>If you answered "Yes", please explain why you think that they should be excluded.</i> No Unsure Organisations contracting with public authorities to provide services which often come within the ambit of FOI exemptions, such as cyber security, should be excluded.	
4	Are there any conditions that you think should be satisfied before organisations providing services on behalf of the public sector become subject to FOISA?
Yes - <i>you answered "Yes", please explain what those conditions are and why they should apply.</i> No Unsure X	

The position regarding organisations that provide services both on behalf of the public sector (under a contract) but are also private commercial entities should be considered. If such entities were to become subject to FOISA then consideration would need to be given to the specific information held by them which would be subject to FOISA. This may be a very difficult distinction in practice. It is arguable therefore that organisations should be wholly or mainly performing public services before becoming subject to FOISA.

5 Do you have any comments on whether extending FOISA to organisations providing services on behalf of the public sector is likely to impact on those organisations' ability to provide services in this way?

It would be helpful if you could provide any examples where you are aware that the impact of FOISA has been a factor for organisations in deciding whether or not to contract with a Scottish public authority.

Scottish Water contracts with a wide variety and size of organisations to provide services. There is a risk, particularly with smaller organisations, that compliance with FOISA would add a significant administrative burden which could deter such organisations from seeking public sector work.

6 Do you have any comments or evidence about the effectiveness of accessing information about a contract to provide services to the public sector by making requests to the Scottish public authority that has contracted out the service?

Examples of situations where you have successfully accessed information in this way or where you have experienced barriers to accessing information in this way would be helpful. Examples of authorities' and contractors' experiences of including provisions about the disclosure of information by contractors would also be helpful.

Scottish Water works closely with its tenderers and contractors to ensure that the provisions of FOISA are understood and complied with. Scottish Water will regularly liaise with contractors to supply information which may be requested under the ambit of FOISA.

7 Do you have any comments on the types of person, body or organisation – or on the functions of a public nature – which should be considered as future candidates when further extending the coverage of FOISA?

It would be helpful if you could set out the key factors that you consider favour the extension of coverage in the way that you propose.

n/a

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