



**Minute of the Scottish Public Information Forum Meeting
Friday 12th May
UNISON Learning Centre, Douglas House,
60 Belford Road, Edinburgh EH4 3UQ**

Present:

Chris	Bartter	CFoIS
Sue	Brown	Edinburgh City Council
Elizabeth	Cairns	Unite the union
Hilary	Chalmers	NHS
Elaine	Clark	Napier University
Alex	Devlin	Audit Scotland
Gary	Dougal	Link Group
Carole	Ewart	CFoIS
Gail	Gibson	Scottish Enterprise
David	Goldberg	CFoIS
Karen	Hannah	Scottish Enterprise
Donald	Henderson	Perth and Kinross Council
Paul	Holleran	NUJ
Sarah	Hutchison	OSIC
Margaret	Keyse	Acting Scottish Information Commissioner
Lisa	Mackenzie	The Ferret
Alison	Mackinnon	SEPA
Helen	Macneil	GCVS
Gillian	Marnie	NHS
Kathleen	Mccutcheon	Paisley South Housing Association
Liz	Melvin	Orkney Housing Association Ltd
Fiona	Montgomery	UNISON
Paul	Mutch	OSIC
Drew	Nisbet	Fife Housing Group
Nick	Pollard	Kingdom Housing Association Ltd
Ash	Reid	Langstane Housing Association Ltd
Taylor	Scott	Skills Development Scotland
Ruchir	Shah	SCVO
Carolyn	Thurston Smith	Law Society of Scotland
Kellyanne	Tosh	NHS
Grant	Walker	River Clyde Homes
Dave	Watson	UNISON

Apologies:

Lloyd	Austin	RSPB
Denise	Chalmers	Scottish Child Law Centre
Hilary	Chalmers	NHS Forth Valley
Lorna	Clark	Scottish Housing Regulator
Rhoda	Grant	MSP
Andrew	Gunn	Scottish Government
Carol	McDivitt	Crown Office
Dave	McGinty	EIS
Bill	Ramsay	EIS

1. **Welcome and Introductions** The meeting was chaired by Dr David Goldberg, Director of Project Forsskal¹, who welcomed everyone and encouraged participation in the meeting. UNISON Scotland was thanked for providing the venue and providing funds for the delivery of a project by the Campaign for Freedom of Information in Scotland (CFoIS), of which convening the Scottish Public Information Forum (SPIF) forms a part.

David explained that today is the beginning of a process rather than an end. For the first time in at least seven years a meeting of SPIF is being held and from now on, CFoIS hopes it will be convened at least twice per year.

2. **FoISA now and then: experiences of requesters, providers and regulators since 1st January 2005**

2.1 The first speaker was Margaret Keyse, Acting Scottish Information Commissioner (SIC), who described work undertaken and reported that: there were 540 new appeals last year, 231 decision notices issued and 1554 enquires dealt with. Nearly 70,000 information requests were made to Scottish public authorities, and that is probably an underestimate. Polling shows high public awareness of FoI and support for the law, although that awareness is limited. The former SIC had regularly highlighted her concerns about the limited scope of FoI in Scotland and in a recent, special report had argued that it is time for a substantial rethink on pro-active publication of information. Monitoring of the 'Model Publication Schemes' shows that 91% of authorities publish information about their decision making via their schemes, but that 79% don't publish open data. Looking ahead it is clear there are some big changes to be addressed particularly European developments including a possible two-tier approach to FoI following the ECtHR decision in *Magyar* and the General Data Protection Regulation that will come in before Brexit.

- 2.2 The second speaker was Alison Mackinnon, Information Manager, Information Governance, Performance and Innovation Portfolio, at the Scottish Environment Protection Agency (SEPA). Alison focused on the Environmental Information (Scotland) Regulations 2004 (EIR(S)s, which the UK was required to introduce following a European Directive. Alison explained how SEPA deals with access to information requests, the

¹For more information see <http://www.peterforsskal.com/>

importance of having a system which enables you to identify and deal with requests within timescales, and reminding us that EIR(S)s have a somewhat wider scope and fewer exemptions. There has been a steady increase in requests in recent years, still 40% from the public, but increasingly from consultants and industry.

2.3 The third speaker was Paul Holleran, National Organiser of NUJ Scotland. who outlined developments in the media and in particular the pressure on journalists due to reduced staffing levels. A big concern is the reduction in investigative journalism and that may explain fewer information requests from journalists. It is essential to be able to access accurate information so that news and information is available to the public and to ensure transparency and accountability in policy, and in services funded by the public purse. The malaise of fake news and cuts in journalism, at national and local level, are undermining democracy.

3 Presentations

3.1 'Pro-active publication of accessible information: What is the 'Open government pioneers project'?² was delivered by Ruchir Shah who is head of the policy department at the Scottish Council for Voluntary Organisations (SCVO). Ruchir argued that transparency is a political weapon and reflects a global challenge to inequality. There is a risk that people are speaking in bubbles, not to each other. He described the Open Government Pioneers Project, which is about building capacity in civil society as a way of increasing transparency and open government. A global movement that Scotland is a part of.

3.2 'Strengthening Access to information Rights: impact of cases at the European Court of Human Rights; history of and plans for, reform of FoISA' was delivered by Carole Ewart, Convener of CFoIS. Carole described their latest project, sponsored by UNISON Scotland, looking at compliance and current practice. She argued that Scotland is some way from achieving an information rights culture and there is a need to integrate FoI with human rights and other public policy initiatives. The Scottish Government needs to keep promises on FoI in areas like expanding the scope of FoI to RSLs, increasing the cost threshold for refusing an FoI request - using the Scottish Government's own figures, the financial threshold of £600 for refusing requests for information is now worth £785 - using the previously moribund SPIF to engage with stakeholders to ensure the law is 'fit for purpose' and taking deliberate steps to pro-actively publish information which the public wants.

3.3 'Challenges to Delivering FoISA and EIR(S)s Practitioners speak out' was delivered by Dave Watson Scottish Organiser (Bargaining and Campaigns) at UNISON Scotland. UNISON is interested in FoI because of its campaigns function and is also the union that represents most FoI staff in public bodies. Dave made the case for extending the scope of FoI to all those who receive the public pound and provided some feedback from FoI staff who are struggling to cope with demands for information at a time of staffing cuts, particularly in administrative functions. There are also capacity issues in the

² For more information see <http://www.scvo.org.uk/blog/four-reasons-why-open-government-matters-to-you/>

departments which must provide the information. Staff also identify resistance from senior management and poor awareness of FoI amongst some senior colleagues. Dave also gave examples of poor compliance based on UNISON's own experience of making FoI requests: public bodies simply not responding or using delaying tactics; daft points of clarification in response to FoI requests; references to online documents that don't actually include the information requested; deliberately avoiding the question by answering a question not asked. UNISON often must go back several times to get a proper answer.

4 Following a break, there was a roundtable discussion on current practice and experiences: on the barriers to accessing information, challenges for those answering requests and how to best develop access to information rights in Scotland. A big theme is that the grand rhetoric on open government falls far short in reality eg evidenced by the work of the Justice Committee of the Scottish Parliament whose scrutiny of the Scottish Police Authority revealed it holds meetings in private. There is some evidence that organisations who receive the public pound through contracts or grant funding are discouraged from making FoI requests because 'don't bite the hand that feeds you'. In practice, there are many ways of getting around this, given that anyone can make a request, therefore the breakdown of the source of FoI requests maybe inaccurate. There is some concern from RSLs about their capacity to comply with FoISA within current staffing levels. It was agreed that peer support will be crucial in sharing expertise, providing reassurance as well as advice on systems which work. There is clearly a need to improve skills in making requests as well as strengthening public bodies capacity to respond. CFoIS reminded those present it can deliver training for staff who must comply with the law, as well as training for those who want to use the law to make an FoI request.

5 Next Steps

5.1 It was agreed that in these challenging times, there has never been a greater need for open government and transparency of information. This is a field that Scotland could be a world leader, in vision and practice. Today's event shows we have much to do, but there is a willingness to make the journey.

5.2 SPIF should continue to meet as it provides a great forum for stakeholder engagement. It was proposed that the next meeting should take place on International Right to Know Day (IR2KD) on 28th September 2017.

5.3 It was agreed that a Minute of this meeting should be made available on the CFoIS website and that it should be circulated to all those who attended. The meeting closed at 12.55

Note: Subsequently Glasgow Council for the Voluntary Sector (GCVS) agreed to host a meeting of SPIF on Thursday 28th September at 2pm in The Albany Learning Centre, 44 Ashley St, Glasgow G3 6DS. From 5.30 – 7pm the International Right to Know Day (IR2KD) Lecture will be delivered, at the same venue. Details about the speaker will follow soon.