



**PUBLIC PETITION NO.**

**PE01512**

**Name of petitioner**

Bill Chisholm

**Petition title**

Amendments to the Freedom of Information (Scotland) Act 2002

**Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to strengthen the Freedom of Information (Scotland) Act 202 by requiring public bodies to provide full and accurate information in all responses to FOI requesters, and to extend the powers of the Scottish Information Commissioner (SIC) to enable the Commissioner to investigate complaints alleging erroneous responses. The SIC should also be able to impose monetary penalties on any public body which breaches the amended FOISA regulations on accuracy.

**Action taken to resolve issues of concern before submitting the petition**

It was only after I received “false” information in response to a FOI request that I became aware there is no obligation on public bodies covered by FOISA to be truthful and accurate in their responses.

So I took the issue up with the Scottish Information Commissioner’s Office, hoping they could intervene and investigate. However I was told in January 2014 by the SIC: “When information is supplied by a Scottish public authority in response to a request and the requester is dissatisfied because he or she believes that the information is misleading, inaccurate, contains errors, or is otherwise deficient, this is not something that the Commissioner can address in terms of FOISA.” I found that response to be both incredible and deeply disturbing.

I then asked my constituency MSP to raise the issue with the appropriate Scottish Government Minister, in this case Nicola Sturgeon, Cabinet Secretary for Infrastructure, Investment and Cities.

In her reply to my MSP, which was forwarded to me on February 12th 2014, Ms Sturgeon states: “Public bodies are required to provide information they have which is within the scope of a freedom of information request, but that does not necessarily mean that the information provided is always accurate and up to date”.

Surely that admission confirms that the current Freedom of Information arrangements are inadequate, and need to be underpinned by a guarantee of accuracy. Having exhausted other avenues in a bid to right this wrong I believe a parliamentary petition to be the only way to close an unfortunate if convenient loophole (for some) in FOISA.

**Petition background information**

The Freedom of Information (Scotland) Act 2002 (FOISA) was passed and implemented so that individual citizens or interested groups could request information from Scottish Government departments, local authorities and other public bodies covered by the legislation. The system is monitored and administered by the Scottish Information Commissioner (SIC) with a staff of 22 and an annual spend of approximately £1.58 million.

Although much more information may have found its way into the public domain since 2002 as a result of Freedom of Information (FOI) requests, the general public may be surprised to learn there is no requirement on the respondents to requests to provide accurate information. And perhaps even more surprising and concerning, the SIC cannot investigate complaints even if there is proof that responses have been misleading, inaccurate, or contain errors. It begs the question how many times have public bodies managed to hoodwink FOI requesters by feeding them bogus information.

In a recent case a Scottish local authority provided a response to a FOI request in November 2013 which the requester knew to be wildly inaccurate. That requester was told the council had spent a total of £13,110 in defending a tribunal case even though a previous figure of £20,000 had been issued by the local authority long before proceedings were concluded. After challenging the £13,100 figure it was revised twice, and when VAT was added the true cost turned out to be £56,700.

However, when the council posted the FOI request and the response on their website in January 2014 it was the £13,100 figure which was displayed. The error was corrected after the requester voiced concerns in the local press. How many similar examples could there be out there?

When the SIC was asked to investigate/comment the Commissioner's Office sent a response which contained the following sentence:

"When information is supplied by a Scottish public authority in response to a request and the requester is dissatisfied because he or she believes that the information is misleading, inaccurate, contains errors, or is otherwise deficient, this is not something that the Commissioner can address in terms of FOISA."

The subject of this petition, i.e. no powers to deal with information that is misleading, inaccurate, contains errors, or is otherwise deficient, has cropped up in numerous findings by the SIC.

This petition urges the Scottish Parliament to close this gaping loophole by either amending or supplementing FOISA with a new section under which public bodies will be duty bound to provide accurate information with no obfuscation. At the same time the SIC will be given powers to investigate complaints alleging erroneous responses when it appears a responder may have been less than frank.

Faced with demonstrably misleading and inaccurate replies to FOIs, the seeds of distrust both in the system and with the respondents will lead to public suspicion and dissatisfaction. Inevitably there will be repeated FOI requests which will constitute an avoidable waste of public money. Could inaccurate information be discouraged by imposing sanctions on those who supply it?

#### **Unique web address**

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01512>

#### **Related information for petition**

**Do you wish your petition to be hosted on the Parliament's website to collect**

**signatures online?**

YES

**How many signatures have you collected so far?**

1

**Closing date for collecting signatures online**

04 / 04 / 2014

**Comments to stimulate online discussion**

It surely cannot be acceptable that our public bodies in Scotland are under no obligation to demonstrate honesty when responding to Freedom of Information requests. The lack of adequate legislation means authorities are at liberty to pull the wool over our eyes by being “economical with the truth” or through obfuscation. This petition seeks to strengthen the law and thereby remove their comfortable “safety net” by ordering them to supply accurate answers at all times.