

REPORT TO: POLICY AND RESOURCES COMMITTEE - 26TH JANUARY, 2009

REPORT ON: COVERAGE OF THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

REPORT BY: DEPUTE CHIEF EXECUTIVE (SUPPORT SERVICES)

REPORT NO: 39-2009

1.0 PURPOSE OF REPORT

- 1.1 This report proposes a reply to the Scottish Government's discussion document on the possibility of extending the coverage of the Freedom of Information (Scotland) Act 2002.

2.0 RECOMMENDATION

- 2.1 The Committee is recommended to agree the draft Response contained in Appendix 1.

3.0 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising directly out of this report.

4.0 MAIN TEXT

- 4.1 On 14 November 2008, the Scottish Government published a discussion document seeking the views of interested parties on the possible extension of the coverage of the Freedom of Information (Scotland) Act 2002 by 12 January 2009. The discussion document can be accessed at <http://www.scotland.gov.uk/About/Foi/Coverage>.
- 4.2 A draft Response with reasons is contained in Appendix 1.

5.0 POLICY IMPLICATIONS

- 5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues.

6.0 CONSULTATION

- 6.1 The Chief Executive, Depute Chief Executive (Finance), Assistant Chief Executive and Head of Finance have been consulted in the preparation of this report.

7.0 BACKGROUND PAPERS

- 7.1 "Discussion Paper - Coverage of the Freedom of Information (Scotland) Act 2002" - The Scottish Government, November 2008.

Patricia McIlquham
Depute Chief Executive (Support Services)

Date: 29th December, 2008

We have been consulted on this report.

Councillor Keenan

Convener

Councillor Ross

SNP Group Spokesperson

Bailie Wallace

Conservative Group Spokesperson

Councillor Macpherson

Liberal Democrat Group Spokesperson

DISCUSSION PAPER**COVERAGE OF THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002**

Q1: In principle, do you support extending the coverage of the Act to contractors? Please explain your reasoning eg do you consider that you are at present unable to access certain information from contractors as they are not covered by the Act?

A1. No. Adequate accountability already exists in respect of their provision of public functions for the reasons given at Paragraph 41 of the Consultation Paper.

Q2: If supportive of an extension of the coverage of the Act to contractors, what particular activities would you like to see covered? In particular, do you consider that contractors who operate privately managed prisons or providers of prison escort services should be covered?

A2. Not applicable.

Q3: Do you agree that the factors summarised in paragraph 33 are relevant in assessing the appropriateness of extending coverage to contractors? Do you think any additional or alternative factors are relevant? Please explain your reasoning.

A3. Not applicable.

Q4: Of the 4 proposed options given in Part 4 (no action/self-regulation/improved statutory guidance/one or a series of section 5 orders), which do you consider the best option? Or would some other option or combination of options be preferable? If supportive of an extension of coverage please also state whether you would support an incremental approach to extension as opposed to a 'big bang'.

A4. Option 1 - Take no action for the reasons given in the answer to Question 1.

Q5: In principle, do you support extending the coverage of the Act to RSLs? Please explain your reasoning eg do you consider that you are at present unable to access certain information from RSLs as they are not covered by the Act?

A5. No. As mentioned in paragraph 71 of the Consultation Paper, given the information already available through various bodies, extension of coverage would add little to what is already accessible.

Q6: If supportive of an extension of the coverage of the Act to RSLs, on what basis would you wish to see coverage extended (ie to all RSLs/to all over a certain size/on the basis of provision of specified functions only/GHA only etc)?

A6. Not applicable.

Q7: Do you agree that the factors summarised in paragraph 62 are relevant in assessing the appropriateness of extending coverage to RSLs? Do you think any additional or alternative factors are relevant? Please explain your reasoning.

A7. Not applicable.

Q8: Of the 4 proposed options given in Part 4 (no action/self-regulation/improved statutory guidance/one or a series of section 5 orders), which do you consider the best option? Or would some other option or combination of options be preferable? If supportive of an extension of coverage please also state whether you would support an incremental approach to extension as opposed to a 'big bang'.

A8. No action for the reasons given in the answer to Question 5.

Q9: In principle, do you support extending the coverage of the Act to trusts and bodies set up by local authorities? Please explain your reasoning eg do you consider that you are at present unable to access certain information from local authority trusts and bodies as they are not covered by the Act?

A9. No. Even if a particular trust or body is not subject to the Act, the public may nevertheless be able to access appropriate information, for example, from the relevant trust or body on a voluntary basis or through a regulator or through the related local authority as stated in Paragraph 92 of the Consultation Paper.

Q10: Are there any specific local authority trusts or bodies which you would like to see coverage extended to and which meet the criteria for coverage as set out in Part 4?

A10. None.

Q11: Do you agree that the factors summarised in paragraph 88 are relevant in assessing the appropriateness of extending coverage to local authority trusts and bodies? Do you think any additional or alternative factors are relevant? Please explain your reasoning.

A11. Not applicable.

Q12: Of the 4 proposed options given in Part 4 (no action/self-regulation/improved statutory guidance/one or a series of section 5 orders), which do you consider the best option? Or would some other option or combination of options be preferable? If supportive of an extension of coverage please also state whether you would support an incremental approach to extension as opposed to a 'big bang'.

A12. Option 1 - Take no action for the reasons given in the Answer to Question 9.