

## Public Consultation on the Freedom of Information Act

The Department of Public Expenditure and Reform seeks your input in relation to the next stage of its review of the Freedom of Information Act. Details on the review, including the review roadmap document may be accessed from the following link:

<http://www.gov.ie/FOIreform/>

Late last year, we undertook a consultation on the scope of the review, and are grateful to those of you who took the time to let us know your views. These returns have informed the themes set out in the accompanying consultation document. If you have already responded to the scoping phase of the review, please be assured that your views will feed in to the final report. However, if you wish to provide further or more detailed submissions at this point of the process, we would encourage you to do so.

In this part of the process, we are seeking views from stakeholders centred on the themes identified in the consultation document. The themes identified are broad, and should allow for a good deal of scope to raise any issues that may be of concern. However, please feel free to raise an issue that does not obviously fall within one of these themes if you wish.

As you will have seen, the themes in the consultation document are structured around two key pillars.

**Structural issues** are seen as potential ways to bring the FOI regime up to date and to supplement or augment how it works. These are intended as the opening of a longer conversation around how FOI and transparency policy can be improved and developed into the future. By their nature, if adopted these themes would likely take the form of medium-to-long term projects.

**Incremental reforms** aim to improve the operation of the FOI system as it is currently structured. These may include updates to the legislation and improvements to practices, aimed at addressing issues that have arisen in practice and ensuring that the FOI legislation continues to deliver on its goals of openness, transparency and accountability of public bodies in the short-to-medium term.

Please feel free to provide detailed information in relation to your response, including international comparisons or any references to other relevant research or best practices. You should not feel obliged to respond under each heading if you do not wish to do so, however we would be grateful for your consideration of the issues raised in the consultation document.

In relation to each of themes, we would ask respondents to consider the specific questions raised in the consultation document, as well as addressing the following key points in their response:-

- Do you agree with this direction?
- How would you see it being implemented and with what level of priority?
- What risks, drawbacks and barriers to implementation do you see?

We would be grateful for your views as soon as possible, but by **12<sup>th</sup> August** at the latest.

It is proposed that submissions to this consultation will be published in full on the Department's website. If you feel that there are particular reasons why some or all of your submission should not be published, please notify us when making your return.

Please contact the FOI Central Policy Unit at [foireview@per.gov.ie](mailto:foireview@per.gov.ie) if you have any queries in relation to this consultation or the review more generally.

**Organisation, name and contact details****Structural Issues**

The following issues are possible updates to the fundamental structure of the FOI regime in order to ensure that it remains fit for purpose, particularly in light of the changes that have occurred in terms of information technology since FOI was first introduced. If you have any general observations on the structure of the legislation that are not captured by the following themes, please provide them below.

**Streamlining access regimes and related functions**

FOI now operates alongside a wide array of other access mechanisms. In this theme, your views are sought on how these obligations might be streamlined and consolidated, and supported.

**Transparency by design**

This theme seeks to explore the possibility of “designing in” transparency when creating systems of work and supporting digital/ICT systems.

**Proactive publication**

Views are sought on how reforms to FOI might serve to drive an increase in the routine publication of information held by public bodies.

**Informal Release**

This theme is concerned with encouraging public bodies to release information to individuals on a routine basis and in a more collaborative way, without the need to go through the formality of a full FOI process.

**Managing the increased volume of “records”**

The FOI system is based on the assumptions of paper-based administration. However, since the legislation was first introduced there has been a transformation of the ways in which individuals seek out and interact with information, both in the workplace and in our daily lives. This theme seeks to address possible steps to ensure that FOI system can adapt to this operating environment.

**Incremental Reforms**

The following issues focus on short-to-medium term reforms aimed at improving the operation of the legislation as it is currently structured. If you have any general observations on the structure of the legislation that are not captured by the following themes, please provide them below.

**Improving the request process**

This theme provides an opportunity to make further suggestions as to how the FOI request process might be improved. Issues that arose in scoping included greater engagement and collaboration between requesters and public bodies, standards for valid requests, rules around extensions, time limits and voluminous requests. However, if you have other suggestions or issues you wish to raise aside from these, you should feel free to do so.

**Fees and charges**

Many respondents to the scoping process raised issues around fees in one way or another. Issues in this theme include the purpose of applying fees and whether this is an appropriate means of addressing concerns around voluminous or unfocused requests, whether refunds are appropriate in certain instances, and technical improvements to the process for applying fees.

**Designating FOI Bodies**

The 2014 Act made significant changes to the process for determining whether FOI applies to a body. This theme is concerned with issues that have arisen out of these changes, issues around the treatment of similar functions in organisations, as well as practical implications of exclusions and part-inclusions. This theme also addresses how FOI applies to contractors and others that receive money from public bodies.

**Role of the Information Commissioner**

Some submissions in the scoping process emphasised enforcement by the Information Commissioner. This theme looks at the role of the Commissioner's Office and how it might support other changes to the approach to FOI and transparency.

**Abuse of FOI**

While only a small proportion of the FOI requests received by public bodies can be characterised as abusing the process, these tend to have a disproportionate impact in terms of resourcing and the integrity of the system. This theme seeks to explore whether the protections in the legislation are sufficient or how they could be improved.

**Other observations**

If you have any other observations in relation to the FOI system or transparency policy that do not fall under the above themes, please provide them below.