POLICY NOTE

THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (TIME FOR COMPLIANCE) REGULATIONS 2016

SSI 2016/xxx

These Regulations are laid in exercise of the powers conferred by sections 10(4) and (5), 21(6) and (7) of the Freedom of Information (Scotland) Act 2002 ('the Act'). The Order is subject to affirmative Parliamentary procedure, as set out at section 72(2)(b) of the Act.

Policy Objectives

Public authorities usually have 20 working days within which to reply to requests made under the Freedom of Information (Scotland) Act 2002 ('the Act'). The same time period is stipulated in respect of responding to a request for a review. Requests and reviews must be responded to promptly within the 20 working day time period.

Section 10(4) of the Act allows the Scottish Ministers to make regulations to extend the 20 day time period up to a maximum of 60 working days from the date of receipt, although requests should still be answered as promptly as possible. Section 10(5) allows such regulations to prescribe a different number of days in relation to different cases. Sections 21(6) and 21(7) make similar provision but in respect of a requirement for review.

From 1 September 2016, grant-aided and independent special schools are public authorities under the Act. The policy objective of these regulations is, in certain circumstances, to extend the time period within which a grant-aided school or an independent special school must respond to a request (or request for a review) made under the Act. This is intended to take into account the impact of school holiday periods in responding to FOI requests (and reviews).

The changes in these draft regulations will come into force on 1 December 2016.

Consultation

The Scottish Government consulted publicly in spring 2016 on draft regulations allowing for variation to be made in the standard 20 working day response period. The draft regulations are specific to grant-aided and independent special schools.

Twenty-two responses were received. The consultation paper, responses to the consultation (where the consultee gave consent for them to be published) and the Scottish Government's response to the consultation summarising the key points, are available on the Scottish Government's Citizen Space webpages[1].

[1] See https://consult.scotland.gov.uk/freedom-of-information/time-for-compliance-regulations

Impact Assessments

Consultation on these draft regulations invited further comment in respect of impact assessments undertaken as part of consultation in summer 2015 on extending coverage of the Act to certain organisations, including grant-aided and independent special schools. In light of comments received an updated Equality Impact Assessment has been produced.

The earlier consultation and related documentation are also available via the Scottish Government's Citizen Space webpages[2].

Scottish Government
Strategy and Constitution Directorate
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[2] See https://consult.scotland.gov.uk/freedom-of-information/foi-consultation/