

Coronavirus Bill will make temporary changes to FOI law

7 April 2020

On 1 April 2020 the Scottish Parliament passed emergency legislation in response to the coronavirus Covid-19 pandemic.

The [Coronavirus \(Scotland\) Bill](#) contains a number of temporary amendments to the operation of freedom of information (FOI) law in Scotland. These amendments mainly relate to the timescales within which Scottish public authorities must respond to FOI requests.

In summary, these amendments will mean that, **for a temporary period**:

- **The maximum timescale within which Scottish public authorities must respond to requests is extended from 20 to 60 working days**
Please note, however, that public authorities are still required to respond **promptly** to the requests for information they receive.
- **The maximum timescale within which Scottish public authorities must respond to requests that it review its initial handling of an FOI request is extended from 20 to 60 working days**
Again, public authorities are still required to respond **promptly** to requests for review.

The Coronavirus (Scotland) Bill also gives Ministers the power to extend the FOI response periods by up to 40 additional working days, in certain circumstances. The Commissioner must be consulted in relation to any use of this power, and the power cannot be used to extend response times for Ministers themselves.

Other FOI provisions in the Coronavirus (Scotland) Bill include:

- the ability for the Commissioner to find in his decisions that a Scottish public authority has not failed to comply with FOI duties if he is satisfied that the failure was due to the effect of coronavirus on that authority, and that this failure was reasonable
- the ability for authorities to issue notices electronically. This will allow the Commissioner, for the first time, to issue decisions by email rather than having to post hard copies.

It is important to note that the provisions in the Bill are temporary and are due to expire on 30 September 2020 (although the Bill also gives Ministers the power to extend the lifespan of the Bill, if necessary).

It is also important to note that the FOI provisions in the Bill apply **only** to the Freedom of Information (Scotland) Act 2002. They **do not**, therefore, apply to requests for environmental information which fall

under the [Environmental Information \(Scotland\) Regulations 2004](#). If an appeal is made to the Commissioner about a failure by a public authority to respond on time to a request for environmental information, therefore, then the Commissioner would have no option but to find that a public authority had failed to respond within the statutory timescale.

However, the Commissioner will be sympathetic to the effects that coronavirus Covid-19 has had on public authorities. Any unavoidable reasons for delay would be recognised in decisions issued by the Commissioner.

The Commissioner will publish further guidance on the implications of the Coronavirus (Scotland) Act on FOI law in Scotland on this website in due course.