

## So you want to know a secret? Just ask Dunion

*By Ian MacWhirter*

It is a tribute to the effectiveness of Scotland's first Freedom of Information Commissioner, Kevin Dunion, that after only a year he has become a verb. The warning: "Watch out, you've been Dunioned," apparently is enough to spread fear and trembling among the pen-pushers and shiny bottoms of Scottish officialdom. Or at least among those whose first instinct is to conceal rather than reveal. It's no exaggeration to say that, in little more than 12 months, Dunion's commission has already altered the climate of official information in Scotland. It has introduced transparency into public life beyond the dreams of the civil libertarians who campaigned long and hard for the Freedom of Information Act. Dunion's advocacy has been imaginative and intelligent, and his rulings – often on very sensitive issues – have generally been regarded as considered and fair. Mind you, I would say that, wouldn't I, since hacks like me have been the first to benefit from the free information Mr Dunion generates. In fact, you sometimes wonder what journalists did before the Freedom of Information Act. In the month of February alone there has been a score of stories, from the plague of birds in the Scottish Parliament ("a multi-million pound pigeon loft" according to information revealed under Fol) to the numbers of under-16s hooked on heroin. From Kirsty Wark's employment status with the BBC to the mortality rates of Scottish surgeons. From the artistic merit of the 7:84 theatre company to the high drop-out rate among student nurses. Oh, and, of course, the publication, online, of MSPs taxi destinations.

Given the resignation of the Scottish Tory leader David McLetchie last year, following revelations about his travel expenses secured under the Freedom of Information Act after an appeal to Commissioner Dunion, it's hardly surprising that many politicians have come to regard Fol as a snoopers' charter; a licence for nosy hacks to go on fishing expeditions into the private lives of people in public life. In fact, this is one of the great myths of Fol.

Of the 571 appeals heard by Kevin Dunion since January 2005, when the act came into force, only 7% have been from journalists. The vast majority, 55%, came from ordinary members of the public and a further 20% came from solicitors. This is not the story we have been hearing about the Fol. These figures, published today in the Fol Commissioner's annual review, contradict the view that Fol is only used by hacks on the make – a view held by not a few hacks.

Politicians will take a bit more convincing, nevertheless. The parliament minister, Margaret Curran, launched a review of the operation of the act last month, saying that "lessons had to be learned", especially about the cost of frivolous inquiries from journalists on the sniff. Well, she didn't quite put it quite like that, but that was what she meant.

One of the modifications being proposed is slapping an upfront charge on inquiries, or capping the cost of those which go forward for answer. Charging for information may seem perfectly reasonable, especially if the information derived is being used to fill column inches. However, it could be the death of the new openness. The experience of countries such as Ireland, which have introduced charging limits, is of a 75% reduction in the use of the act by ordinary members of the public. Hacks will still use it, if the story is good enough, but the punters will go elsewhere. Well, I sincerely hope that the executive – if they're still minded to curb the commissioner – will reconsider in the light of today's report.

Instead of muttering about misuse, the Scottish Executive should be embracing Fol as one

of the great success stories of devolution – one which has captured the imagination of the Scottish people and has forced the UK government to take note. Lord Falconer's promise to extend freedom of information in England has been in large part a consequence of the trail blazed by Commissioner Dunion and his team. But the real achievement is to be found not in the actual rulings of the commissioner, or the misfortunes of politicians, but in the wider impact of freedom of information on the culture of Scottish public life. For generations, the instinct of officialdom in Scotland, faced with legitimate public concern, has been: say nothing, do nothing, keep stumm. Dysfunctional agencies have been able to conceal their dismal performance behind a blanket of official secrecy. Think of the Scottish Qualifications Agency or the Scottish Criminal Records Office.

There is no guarantee, of course, that freedom of information can prevent miscarriages of justice such as the Shirley McKie case. But what we can be sure of is that officials will think very carefully indeed before they try to cover anything up in future. Even honest mistakes. As they reach for the red tape, the fear of being Dunioned will weigh heavily on their minds. Better, on the whole, to come clean, open up, explain and be accountable.

You can understand why many public-sector professionals have, in the past, wanted to maintain a certain distance between themselves and the public arena. Surgeons, to take a recent example, were intensely worried that the publication of surgical death rates would lead to newspapers "naming and shaming" those who, for perfectly good reasons, might have a higher number of mortalities. The Royal College feared that league tables might be drawn up; that surgeons might be reluctant to take on difficult operations for fear of increasing their ranking.

In the end, the newspapers handled the new intelligence pretty – well – intelligently. It now seems faintly absurd that important medical statistics such as these should have been secret in the first place. People are perfectly capable of understanding that certain procedures carry greater risk. What they don't understand, is why the medical profession is so keen to keep these things secret. That breeds suspicion. It's the same across most of public life. Why should the number of school teachers sacked in Scotland since 2000 have been secret? (nine out of 52,000, if you want to know). Or the price of minister's television sets (£12,000, as it happens). There are many areas of Scottish public life which remain inexplicably secret: PFI hospitals which claim commercial confidentiality, housing associations, the commercial clients who lodged 1100 solicitors' queries about CalMac.

Dunion is not above criticising journalists, particularly those who fire off e-mails with little thought to the amount of work that goes into answering them. He keeps a close eye himself on "vexatious" questioners, and he is quite right so to do. It may be that journalists will have to explain some of their requests more coherently in future. But there is no doubt that the quality of Scottish public debate can only improve by greater openness and accountability. We've all been Dunioned now.