

To: Audit, Scrutiny and Petitions Board

On: 28 November 2016

Report by: Director of Finance & Resources

Heading: Scottish Information Commissioner – Annual Report & Accounts
2015/16: Towards a transparent Scotland

1. Summary

- 1.1 The purpose of this Report is to advise the Board on the Scottish Information Commissioner's Annual Report.
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2. Recommendations

- 2.1 It is recommended that the Board notes the terms of the report.

3. Background

- 3.1 The Freedom of Information (Scotland) Act 2002 ("FOISA") came into force on 1 January 2005 and created a general right to obtain information from any designated Scottish public authority subject to limited exemptions. Most of the exemptions are only available if the request fails the "public interest" test. In other words, information must still be released if it is of greater benefit to the public to release the information than withhold it.
- 3.2 The Annual Report for 2015/16 explores the performance of the Office of the Scottish Information Commissioner ("OSIC") across the year and how FOISA can "add demonstrable value to public services" within Scotland.
- 3.3 Key highlights include:
- 540 appeals were received by OSIC in 2015/16 (14% increase)

- In 60% of decisions the Commissioner found wholly or partly in favour of the requester (6% decrease).
- 14% of appeals concerned requests for environmental information (no change).
- 77% of the public feel that FOI gives them confidence in public bodies.
- Scottish public bodies report receiving over 68,000 information requests in 2015/16.

3.4 The statistics detailing the outcome of requests for information that have been referred to the Commissioner in 2015/16 are set out in tables forming part of the Annual Report. There were a total of 540 Appeals to the Commissioner in 2015/16 and one of those was the first ever appeal under the INSPIRE (Scotland) Regulations.

3.5 The report details the reasons for appeals made to the Scottish Information Commissioner. The top three reasons are detailed in the table below.

Reason for Appeal	Percentage	Change from 14/15
Information was withheld	47%	Up 9%
Failure to respond	20%	Down 7%
“Not held” response disputed	13%	Down 1%

3.6 Most appeals to the Commissioner concern local authorities and were 43% of the 540 appeals made. This is unsurprising given the breadth of responsibilities that local authorities cover.

3.7 In the 2015/16 period covered by the Report, Renfrewshire Council had three valid appeals submitted to the Commissioner, two of which were from the same requester. Those two were subsequently withdrawn by the requester and the third was reported to the Board last year, and is summarised below for ease of reference:-

- 06 November 2015 (Decision No: 169/2015) – the Commissioner fully upheld the Council’s decision to refuse to release material under Section 25(1) of the Act in relation to a meeting of its Procurement Sub-Committee. The Commissioner agreed with the Council that the information requested was already publicly available on its website and no further release of information was required.

3.8 Although the Commissioner’s Report covers only 2015/16 and statistics for 2016/17 will be reported to Board next year, there has, to date, been

only a single valid appeal application for the year 2016/17. This was received in June 2016 and that requester also withdrew the appeal.

3.9 Since FOISA came into force in 2005, the Council has had a total of 18 Appeals to the Commissioner. In 8 of these decisions, the Council's decision has been completely upheld, 4 have been partially upheld and 3 have been withdrawn by the requester. Only 3 decisions have been overturned by the Commissioner and are summarised below.

- 2014 - The Commissioner instructed the Council to provide a copy of notes in addition to information held.
- 2007- The Commissioner concluded that information was not on the Council's publication scheme and therefore should be disclosed.
- 2005 - The Council failed to respond within the 20 working day time-limit due to a temporary technical problem with receipt of email requests, which was subsequently resolved.

3.10 Proactive publishing of information is a statutory duty and is seen as way of engaging with service users. Authorities meet this obligation by publishing information in accordance with the model publication scheme that is approved by the Commissioner. During 2015/16, the Commissioner changed her approach to monitoring those publication schemes. A social research company, Craigforth, was commissioned to evaluate publication schemes by using mystery shopping techniques. The Council's publication scheme was not chosen as part of the evaluation, but Renfrewshire Licensing Board's scheme was. There were no concerns raised. The full report can be found on the Commissioner's website (<http://www.itspublicknowledge.info/>).

3.11 Public authorities, including Renfrewshire Council, upload data on FOI and EIR (Environmental Information Regulations) requests to the 'Statistics Portal'. Launched by the Commissioner in 2014, it provides the most comprehensive picture possible of FOI and EIR activity across Scotland. The information is collated and published quarterly.

- In total there have been 68,156 FOI requests in Scotland in 2015/16, an increase of 2% over last year's (2014/15) totals.
- Renfrewshire Council received 1,035 FOI requests in 2014/15 and 1,339 in 2015/16 (an increase of 29.4%).
- In the first half of the current financial year, Renfrewshire Council has received 608 requests compared to 602 over the same period last year.

- 3.12 If a requester is dissatisfied with the way in which the Council has dealt with their request, they are entitled to have the Council review its decision. If they are still unhappy with the outcome, then they are free to lodge an appeal with Commissioner. There were 29 requirements for Review in 2015/16 compared to 25 the previous financial year. The low level of requirements for internal review received by the Council compared to the high volume of requests processed, together with only 3 appeals to OSIC during 2015/16 indicates that the Council is managing its responsibilities well and has successfully risen to the challenges of freedom of information.
- 3.13 It is crucial that the Council maintains consistently good practice in relation to FOI compliance to avoid any reputational damage. In addition the Commissioner also set out her “vision that FOI in Scotland will add demonstrable value to public services and contribute positively to the transparency and accountability of public functions in Scotland.” This is reliant on public authorities developing their FOI performance especially through proactive publication and the public exercising their access to information rights.
- 3.14 According to Ipsos MORI research, overall awareness of FOI in Scotland was at its highest ever level of 85% (up 1% from 14/15). However, among the 16-24 year old age group it was significantly lower. Despite this, the underlying principles of FOI were valued by young people and in many cases more strongly supported than by the general population. With the increasing awareness of FOISA among the general public, and work by the Commissioner to increase awareness, especially amongst the younger populace, it is not surprising that the overall numbers of requests received by public authorities is increasing and will continue to do so.

Implications of the Report

1. **Financial** – none
2. **HR & Organisational Development** – none
3. **Community Planning** – none
4. **Legal** – none
5. **Property/Assets** – none.
6. **Information Technology** – none.

7. **Equality & Human Rights** – The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only.
 8. **Health & Safety** – none.
 9. **Procurement** – none.
 10. **Risk** – none.
 11. **Privacy Impact** – none.
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List of Background Papers

[Scottish Information Commissioner – Annual Report & Accounts 2015/16: Towards a transparent Scotland](#)

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