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**To:** Audit, Risk and Scrutiny Board

**On:** 22 November 2021

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**Report by:** Director of Finance & Resources

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**Heading:** Scottish Information Commissioner – Annual Report and Accounts  
2020-21: FOI during the Covid-19 Pandemic

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**1. Summary**

1.1 The purpose of this Report is to advise the Board on the Scottish Information Commissioner’s Annual Report 2020/21. The Report is available on the Commissioner’s website at [www.itspublicknowledge.info/uploadedfiles/SIC\\_Annual\\_Report\\_and\\_Accounts\\_2020-21.pdf](http://www.itspublicknowledge.info/uploadedfiles/SIC_Annual_Report_and_Accounts_2020-21.pdf)

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**2. Recommendations**

- 2.1 It is recommended that the Board:
- Note the contents of the Office of the Scottish Commissioner (OSIC) annual report.
  - Note the information on the numbers of FOI requests, reviews and appeals involving the Council in paragraph 3.4 of the report.
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**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 2020/21 looks to at FOI during the Covid pandemic

3.3 Key highlights include:

- OSIC received 486 appeals this year, compared to 494 the previous year. 81% of appeals came from members of the public, and 23% of valid appeals were about an authority's failure to respond.
- 1% of requests received by Scottish Public Authorities resulted in appeals to OSIC.
- OSIC carry out interventions in cases where a Scottish public authority fails to meet the requirement set out in legislation and the Scottish Ministers' Codes of Practice. 260 interventions were required, compared with 251 the previous year.
- In 65% of decisions the Commissioner found wholly or partly in favour of the requester, compared to 67% the previous year.

3.4 Since 2014 the Commissioner has maintained a 'Statistics Portal'. Public authorities upload data on FOI and EIR (Environmental Information Regulations) requests to this portal. Data uploaded includes, the number of requests and review requests received, which exemptions and exceptions have been applied and whether statutory timescales have been met. This information is collated and published quarterly.

- In total there have been 69,500 requests in Scotland in 2020/21, a decrease of 14% over last year's totals.
- Despite the decrease in requests, the number of failures to respond to requests more than doubled.
- Renfrewshire Council received 1237 requests in 2020/21, a decrease of 27% from last year's total of 1691. This placed the Council 8<sup>th</sup> out of the 32 Local Authorities for number received, down from 7<sup>th</sup> in 2019/20.
- The Council received 14 requirements for Review in 2020/21 compared to 17 the previous financial year.

- Across Scotland, 2.8% of requests resulted in a requirement for review. 1.1 % of requests received by the Council resulted in a requirement for review.

3.5 In the 2020/21 period covered by the report 37% of appeals received by the Commissioner involved Local Government Authorities, down from 46% the previous year.

3.6 The Council received no appeals for 2020/21.

3.7 The Council adapted well to the challenges of FOI during the COVID pandemic and the necessary redistribution of staff and resources. The Council also minimised the impact of the Scottish Government's implementation and sudden withdrawal of the 60-day extension to FOI during the pandemic by continuing to adhere to the 20-working day deadline throughout. The low level of requirements for review compared to the volume of requests processed by the Council, together with no appeals to OSIC during 2020/21, also indicates that the Council continues to manage its responsibilities well.

## Implications of the Report

1. **Financial** – none
2. **HR & Organisational Development** – none
3. **Community Planning** – none
4. **Legal** – This report summarises the OSIC report on how public authorities, including the Council are complying with their obligations under the 2002 Act.
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
12. **Cosla Policy Position** – none
13. **Climate Risk** - none

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