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Scottish Information
Commissioner

Scottish Information Commissioner

Annual Report and Accounts 2017/18
Opening the door to meaningful participation

“

Whoever seeks information, on whatever subject and for whatever reason, it opens the door to meaningful participation in our democratic society.

”

Daren Fitzhenry



Our intervention into Scottish Government FOI performance was our largest and most complex yet

65%

of decisions found wholly or partially in favour of the requester



We completed our training roadshow tour of Scotland



We co-hosted the International Conference of Information Commissioners



We produced a video to promote FOI rights to young people

Overview

A summary of our purpose, key issues and key risks to the achievement of objectives and how we performed over the year.

Performance summary



Whoever seeks information, on whatever subject and for whatever reason, it opens the door to meaningful participation in our democratic society.



Daren Fitzhenry

Scottish Information
Commissioner's Statement
See page 2

Our intervention into Scottish Government FOI performance was our largest and most complex yet



Performance Analysis:
Interventions
See page 8

19%

increase in appeals in 2017/18

Performance Analysis:
Appeals
See page 9

Our online appeal service gives advice on validity of appeals



Performance Analysis:
Validation
See page 15

38

decisions were issued under the EIRs

Performance Analysis:
Outcomes
See page 22



We closed 80% of our appeals within 4 months

Performance Analysis:
Investigations
See page 17

65%

of decisions found wholly or partially in favour of the requester

Performance Analysis:
Outcomes
See page 21



Of 205 decisions issued, only one was appealed to the Court of Session

Performance Analysis:
Outcomes
See page 23

99%

of delegates rated our roadshows as "good" or "excellent"

Performance Analysis: Monitoring and improving practice
See page 25



Appeals made using our online appeal service are more likely to be valid

Performance Analysis: Validation
See page 15



150–200

Each edition of our Decisions Round-up is read by 150-200 people

Performance Analysis: Monitoring and improving practice
See page 26

We completed our training roadshow tour of Scotland



Performance Analysis: Monitoring and improving practice
See page 25

GDPR

We worked with Government to ensure necessary changes were made to FOI law

Performance Analysis: Monitoring and improving practice
See page 28

25%

Only 25% of secondary school pupils are aware of their FOI rights

Performance Analysis: Raising awareness and improving access
See page 29



We produced a video to promote FOI rights to young people

Performance Analysis: Raising awareness and improving access
See page 30



We co-hosted the International Conference of Information Commissioners

Performance Analysis: Raising awareness and improving access
See page 32

3

We commissioned our third wave of "mystery shopper" research into how well authorities are meeting their publication duties

Performance Analysis: Raising awareness and improving access
See page 35



We reduced our carbon footprint

Performance Analysis: Operational performance
See page 41

Overview

Commissioner's statement



Welcome to the Scottish Information Commissioner's 2017/18 Annual Report and Accounts. I am very fortunate in my role that as soon as I come into the office, on my desk waiting for me are the press cuttings for the day. They provide a small snapshot before I start work, of how FOI has been used and how people have benefitted from it. Whoever seeks information, on whatever subject and for whatever reason, it opens the door to meaningful participation in our democratic society. It is this enablement of informed and meaningful participation, whether through open publication or in response to information requests, which is at the heart of FOI's value and utility to society and which makes FOI an increasingly important part of our democratic structures and processes. It is from that openness, and the public participation it enables, that transparency and accountability flow. That in turn can help rebuild much needed public trust in our public authorities.

This is my first annual report, having taken up office on 16 October 2017, and as such it covers both my first six months in post and the preceding period when Rosemary Agnew was Commissioner and my Head of Enforcement, Margaret Keyse, was Acting Commissioner.

It has certainly been a busy year, and one in which FOI has had a high profile. With continued high levels of public awareness of FOI and record numbers of information requests to Scottish public authorities, this year has seen information being disclosed in response to more requests than in any year to date. We have also seen moves towards greater proactive publication from a number of authorities, such as the development of disclosure logs so that disclosed information is made easily available to everyone. Some other highlights include the Scottish Government's announcement of its intention to extend the application of the Freedom of Information (Scotland) Act to Registered Social Landlords, an extension that my office has long called for; consideration of Scottish Freedom of Information legislation for post-legislative scrutiny; and my office's co-hosting of the 2017 International Conference of Information Commissioners, which took place in Manchester. We supported that Conference's resolution which aimed to address a key challenge for access to information frameworks around the world, namely the growth in contracted-out public services, by encouraging, promoting and sharing practice

on initiatives and programmes to improve access to information legislation in relation to those services.

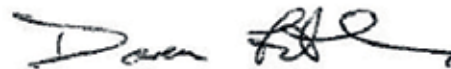
The picture has not, however, been completely positive, with criticism being made about the FOI practice of a number of public authorities, such as allegations of journalists being treated differently to other requesters, misuse of exemptions, and delays in disclosing information. In particular, in June 2017, following an open letter from a group of journalists, we saw an unprecedented motion passed in the Scottish Parliament, condemning the Scottish Government's poor performance in responding to freedom of information requests.

So what have we done this year to address the concerns raised? This Annual Report will show how, in addition to our once again increasing appellate role in relation to specific requests for information, we have continued our programme of training and promotion of good practice through roadshows and conferences, guidance, self-assessment toolkits, lessons learned in our decisions round-ups and, where required, direct intervention. This year we completed our training roadshow tour of Scotland with events in Greater Glasgow and Fife. We have also facilitated joint workshops with requesters and public authorities, enabling an appreciation of and learning from each other's experiences.

Where prevention does not work, we have intervened directly with public authorities to resolve identified problems and improve their FOI performance. This year saw us conducting over 230 interventions, and a level 3 intervention which is looking at the Scottish Government's FOI performance. Building on the work of my predecessors, we are continuing to develop our enforcement and intervention procedures to enable a flexible, proactive approach to tackle systemic performance issues in public authorities. The objective of interventions is ultimately the improvement of FOI practice and performance, and the degree of intervention required to achieve this can vary from a recommendation to improve practice, through to a detailed evidence-based audit of procedures, practice and culture followed by a substantial monitoring phase. This Report highlights this increasingly important work strand.

Looking forward, my office and I have this year provided evidence to the Public Audit Committee in relation to possible post-legislative scrutiny of the Freedom of Information (Scotland) Act. We welcome this dialogue and look forward to continue working with the Scottish Parliament and Scottish Government on any review of the system, to seek improvement, address any shortcomings, and deal with changes in practice such as the contracting out of public services, thus ensuring that FOI remains relevant and effective.

As a small organisation we will continue to use our limited resources to guide, teach, advise and assist requesters and public authorities alike, working with and supporting others to secure increased openness and to help people access the information which really matters to them.



Daren Fitzhenry
Scottish Information Commissioner

Overview

Public functions

The Scottish Information Commissioner is responsible for promoting the observance by Scottish public authorities of freedom of information legislation and associated Codes of Practice.

In terms of Parts 3 and 4 of the Freedom of Information (Scotland) Act 2002 (the FOI Act), the statutory functions of the Scottish Information Commissioner are to:

- Enforce the FOI Act, the Environmental Information (Scotland) Regulations 2004 (the EIRs) and the Codes of Practice issued under sections 60, 61 and 62 of the FOI Act.
- Provide guidance on the FOI Act and the EIRs to the public and promote the following of good practice by Scottish public authorities.
- Give advice to any person on these matters.

The Commissioner's statutory functions include:

- approving Scottish public authorities' publication schemes
- investigating, deciding and enforcing appeals in relation to authorities' handling of information requests
- assessing, promoting and monitoring practice
- giving advice and assistance about access to information under FOI legislation.

The Commissioner also investigates and decides appeals about complaints made under the INSPIRE (Scotland) Regulations 2009 where the complaint involves a refusal to grant full public access to a spatial data set or service.

Organisational structure

The Scottish Information Commissioner has a team of 23 people based in St Andrews, Fife. There are three departments: Corporate Services, Enforcement and Policy and Information. The Senior Management Team (SMT) is led by the Commissioner and is made up of the Commissioner and the three Heads of Department.

The Corporate Services Team provides assurance to the Commissioner as Accountable Officer and a range of corporate services, including governance, finance, information management, human resources, procurement and contracts, risk and records management.

The Enforcement Team investigates appeals made under FOI law, ensuring that authorities comply. The Head of Enforcement is in-house legal adviser to the Commissioner.

The Policy and Information Team delivers strategies to improve authorities' FOI practice and promote FOI rights to the public.

More information on the organisational structure can be found on our website at <http://www.itspublicknowledge.info/home/AboutSIC/CommissionerTeam.aspx>

Objectives and Strategies

The Scottish Information Commissioner is required to lay a four-year Strategic Plan before the Scottish Parliament, on how the Commissioner proposes to perform his functions during that period. In March 2016 the Commissioner laid a new Strategic Plan for 2016 to 2020.

Strategic Plan 2016 to 2020

Our vision is that Freedom of Information will add demonstrable value to public services and contribute positively to the transparency and accountability of public functions in Scotland.

To realise this vision, our strategic aims are to:

1. support the on-going development of Scottish public sector culture and practice where the sharing and disclosing of information is routine, and which actively serves openness, transparency and the public interest
2. help people to be familiar with their rights to access information and exercise them knowledgeably and responsibly
3. enable and support Scottish public authorities to develop and maintain high standards of FOI policy and practice. We will do this through a combination of regulation, advice and assistance, and appropriate collaboration. This includes promoting the embedding of FOI in good communication, excellent customer service, creation and management of records and in supporting efficient, equitable and accountable delivery of statutory functions
4. contribute positively to Scotland being respected as a world-leader in openness, transparency, and access to information law, policy and practice, including supporting the development of Scottish access to information law to ensure it remains fit for purpose
5. be recognised as an organisation of accessible experts, that is run efficiently, governed effectively and leads by example in the delivery of its statutory functions. We will ensure that delivery of our functions

meets and keeps pace with recognised standards and national public service improvements, and is delivered openly and transparently.

The Commissioner approves and publishes an annual Operational Plan linked to the Strategic Plan, monitoring and publishing progress each quarter. Each planned action is cross referred to the strategic aims. Projects are managed against general project management principles and practice and progress is reported monthly.

There is a clearly structured process in place to monitor the likelihood and impact of strategic and operational risks, appropriate to the organisation. The seven strategic risks in 2017/18 broadly related to the continued utility of, awareness of, and support for FOI; the allocation and maintenance of sufficient resources to FOI; the practice, governance and performance of the office of the Scottish Information Commissioner; and the impact of Brexit.

Strategic and operational risks were reviewed regularly to monitor whether or not the risk profile was changing, to gain assurance that risk management was effective and to identify when further action was necessary.

The number and complexity of applications processed each operational year is demand driven and is outwith the control of the Commissioner. There is a performance management system in place against which we measure, report on and achieve continuous improvement in the quality of our work and, also, by which we monitor and report on organisational outcomes. This Annual Report provides commentary on our performance against the targets and Key Performance Indicators (KPIs) for 2017/18.

The performance management system is also supported by internal systems to ensure that we can identify and monitor how performance contributes to organisational outputs. In 2017/18, the number of appeals and the effect of this on targets and the KPIs were reviewed regularly and identified as a risk in the management of the resources and in the financial arrangements of the Commissioner.



Find out more

Read our Strategic Plan at www.itspublicknowledge.info/home/AboutSIC/StrategicPlan.aspx

Terms used

FOI Freedom of information

FOI Act The Freedom of Information (Scotland) Act 2002

EIRs The Environmental Information (Scotland) Regulations 2004

Performance Analysis:

Monitoring and improving practice

Interventions

Intervention levels

Level 1

Issue ○ Action ○

Minor failure to follow good practice

Staff alert the authority to the issue and may suggest remedial action, potentially with follow up action

Level 2

Ongoing practice failure

Senior staff raise the issue with authority and propose remedial action, with follow up

Level 3

Serious or systemic practice failings

Authority required to put in place an action plan to address the failure

Level 4

Consistent failure to comply with FOI law and guidance

The Commissioner will use statutory powers to address the problem

The Commissioner's Intervention Procedures under our Enforcement Policy set out when and how we will intervene to address an authority's FOI practice. We decide when to intervene based on identification of non-compliance with the FOI Act or Codes of Practice, including:

- issues we note during our case work, and
- trends in the data submitted by authorities to the Commissioner's statistics portal.

Level 1 interventions

| Intervention Type | 2017/18 |
|--|---------|
| Level 1 concern noted and authority alerted, no action required | 194 |
| Level 1 concern noted and raised with authority, response required | 29 |

The most frequent concerns raised with authorities at Level 1 in 2017/18 were:

- Compliance with timescales at review and request (45)
- Review process (31)
- Handling of initial request (21)

Level 2 interventions

| | 2017/18 |
|--------------------------------|---------|
| Level 2 interventions caseload | 7 |

Level 2 interventions

Aberdeen City Council: *access to published information and charging.*

East Dunbartonshire Council: *compliance with timescales.* We were concerned that the council was failing to respond to requests and requests for review on time. We had also noted continuing significant delays in the council responding to the Commissioner's investigations. In 2016/17 we had issued an Information Notice to the council and considered referring the council to the Court of Session for failing to comply with a Decision Notice. Following a meeting with the Chief Executive and Chief Solicitor and Monitoring Officer, the council agreed to undertake an urgent review of its FOI policies and procedures and to provide monthly performance monitoring information to us for six months. By the end of the intervention, the council was complying with 94% of requests and reviews on time.

Glasgow Prestwick Airport Ltd: *access to published information and charging.* In Decision 105/2017, we did not accept that Glasgow Prestwick Airport Ltd could refuse, on grounds of excessive cost, to respond to a request for its board minutes. This was in any event information that the company had already committed to publish. Our intervention focused on ensuring the company publishes information about the decisions it takes. It reviewed and updated its guide to information, using the relevant Self-Assessment Toolkit module produced by the Commissioner.

Scottish Further and Higher Education Council (SFC): *compliance with timescales.*

City of Edinburgh Council: *responding under appropriate legislation.*

NHS Tayside: *compliance with timescales.* This intervention was prompted by an observation that NHS Tayside had responded to only 70% of information requests on time over a seven month period. We asked the authority to provide us with the reasons for the low level of compliance with the statutory timescales and to complete Module 1 of the Self-Assessment Toolkit (responding on time). This intervention is ongoing.

Scottish Government: *compliance with timescales.*

Level 3 interventions

Scottish Government: *FOI culture and practice.*

There's more about our interventions with the Scottish Government at page 8.

Police Scotland: *searching for and locating information.*

Last year we reported on our intervention into Police Scotland's FOI practice in searching for and locating information to respond to information requests. We had also raised issues about record-keeping and the volume of appeals refused on grounds of excessive cost. This intervention continued throughout last year as the authority reviewed its practice, using a module of the Commissioner's Self-Assessment Toolkit. The review recommendations formed an action plan, which we agreed in February this year. The intervention is now in the monitoring phase and we will receive updates in July and December 2018.

Level 4 interventions

We completed Level 4 interventions with Sycamore School and Eden Park Academy which had failed to adopt a publication scheme. Both authorities have complied.



Find out more

You can find out more about our Self-Assessment Toolkits on page 26

Performance Analysis:

Monitoring and improving practice

Interventions - continued

Scottish Government interventions

Responding on time (Level 2 intervention)

Six years ago, the Commissioner laid a special report before the Scottish Parliament, sharing concerns about an increase in the proportion of appeals about a failure to respond to information requests or requests for review. The report drew attention to the performance of individual authorities, one of which was the Scottish Government. Following publication of the report, we continued to work on this issue, closely monitoring authorities' performance and alerting them to peaks in appeals about failure to respond.

Initially, the Scottish Government's performance showed signs of improvement, but in January 2017, the receipt of a fifth appeal about failure to respond prompted an intervention. Following an assessment of the problem, the Government agreed, in March 2017, to adopt targets: 85% of request and review responses on time in year one, rising to 92% the following year and 95% in three years. The Government would provide us with monthly performance information for nine months.

Performance improved considerably during the period, from 63% of requests and 65% of reviews responded to on time in April 2017, to 93% and 92% respectively in December 2017. At the end of the period, we agreed a further six months of monitoring to support the authority to sustain the improvement.

FOI performance (Level 3 intervention)

In February 2018, following consultation about the scope, we began the assessment phase of a further intervention with the Government in light of serious concerns raised by a letter from journalists to the Scottish Parliamentary Corporate Body and during a subsequent Scottish Parliamentary debate. Where that assessment highlighted deficient practice, the intervention will require the Government to remedy any breaches of FOI law and meet the minimum standards of good practice in their Section 60 Code of Practice.

At the time of drafting this report, we have completed the assessment phase and have reported on that phase of the intervention. Our assessment has involved detailed examination of a large sample of FOI case records, internal correspondence, the Government's FOI policies and procedures, and statistical information. We have also conducted interviews with relevant officials and office-holders to ensure a full understanding of their current practice. We have required the Scottish Government to develop an action plan, for our approval, by 13 September 2018. We will monitor and review the implementation of the action plan. This is the largest and most complex intervention we've undertaken to date.



The Commissioner's action has given us a clear target to work towards, and to focus performance monitoring across the organisation.

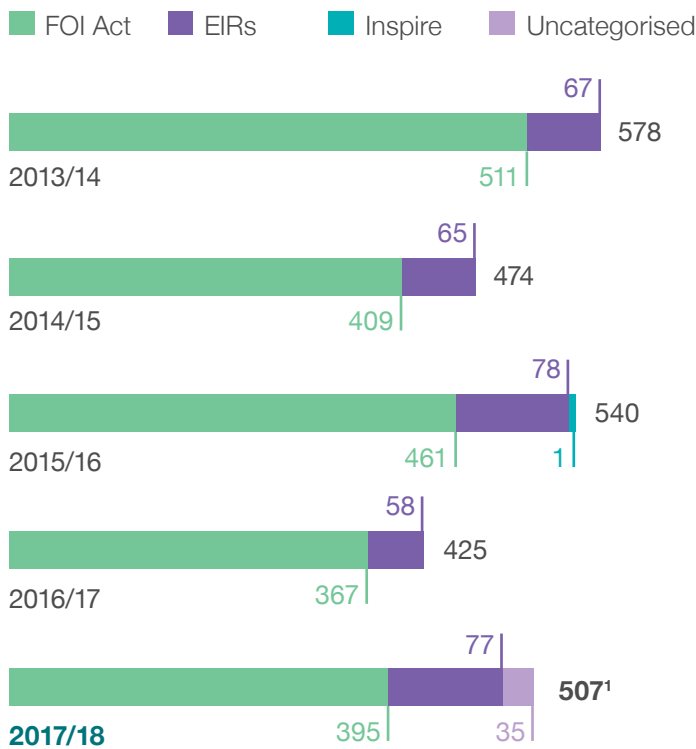


Joe Fitzpatrick MSP, Minister for Parliamentary Business, Holyrood
FOI Conference, Dec 2017

Performance Analysis: Appeals

Anyone who is unhappy with an authority’s response to an information request has an enforceable right of appeal under FOI law

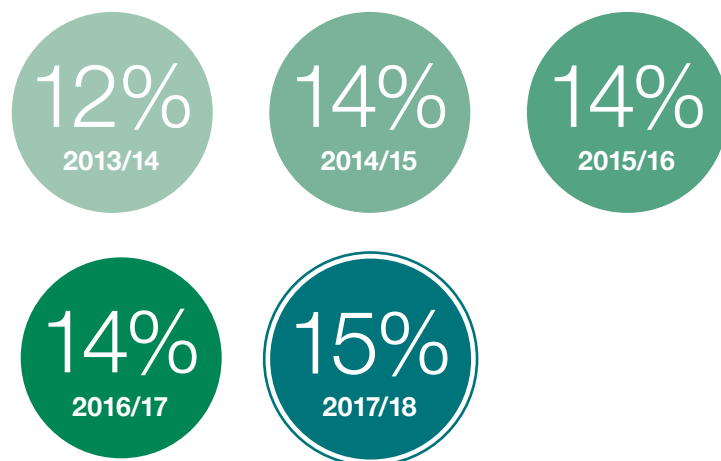
Total appeals by legislation



Appeals increased by

19%

% of appeals made under the EIRs



The proportion of appeals under the EIRs is the highest recorded

¹ Within the total of 507 cases, 35 cases received at the end of the year had not yet been categorised by reason for appeals, what appeals are about, which sectors’ responses are appealed, or validity.



Find out more

There were some high profile EIRs appeals this year. See page 23 for more

Performance Analysis: Appeals

continued

Who appeals?

| | 2015/16 | 2016/17 | 2017/18 |
|---|---------|---------|---------|
| Public and other ² | 61% | 66% | 75% |
| Media | 20% | 14% | 11% |
| Prisoner | 7% | 4% | 3% |
| Solicitor | 0% | 1% | 1% |
| Elected representative (MP, MEP, MSP, councillor) | 3% | 1% | 1% |
| Commercial / private enterprise | 4% | 7% | 3% |
| Voluntary / campaign organisation | 1% | 4% | 4% |
| Academic / student | 0% | 3% | 1% |
| Trade union | 0% | 1% | 0% |
| Solicitor (on behalf of client) | 4% | 0% | 0% |

From 2016/17, we changed the way we record cases coming via solicitors. Where a solicitor has made an appeal on behalf of a client, we now record the type of client they represent. This gives a clearer picture of who is making appeals.

Some charts in this report sum to 99% or 101% due to rounding.

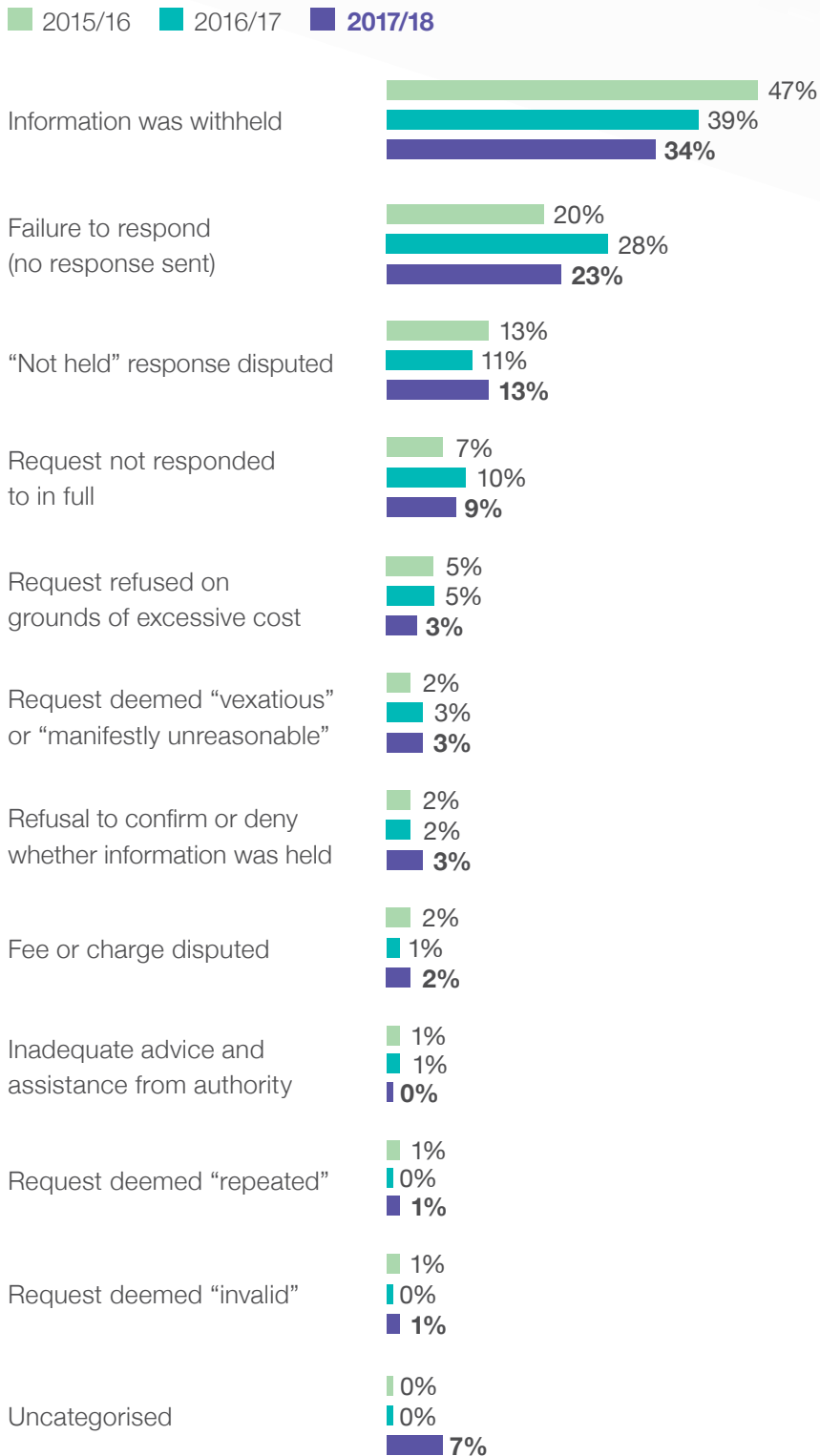
² "Public and other" represents all individual members of the public with no identified affiliation to an organisation or group.



Find out more

See the statistics submitted by all authorities in Scotland at <https://stats.itspublicknowledge.info/>

Reasons for appeals



I appreciate all of the time and effort you devoted to the investigation which led to a satisfactory outcome.



FOI requester



Find out more

See page 16 for more about failure to respond appeals

Performance Analysis: Appeals continued

What are appeals about?

FOI gives people the right to ask for information held by public authorities on any topic. The 10 most common subjects of appeals received last year were:

| 10 most common appeal categories | 2016/17 | 2017/18 |
|------------------------------------|---------|------------|
| 1. Administration of the authority | 21% | 14% |
| 2. Safety and crime | 13% | 14% |
| 3. Planning | 7% | 7% |
| 4. Transport and roads | 6% | 6% |
| 5. Environment | 3% | 5% |
| 6. Care (children & older people) | 5% | 5% |
| 7. Education and learning | 4% | 5% |
| 8. Finance & expenses | 3% | 5% |
| 9. Health | 4% | 4% |
| 10. Employees | 6% | 4% |
| (Other) | 28% | 31% |

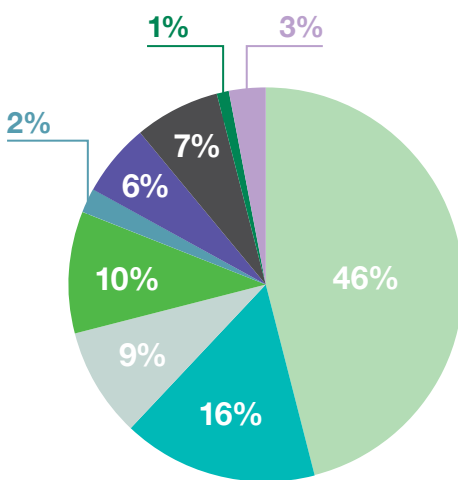


Find out more

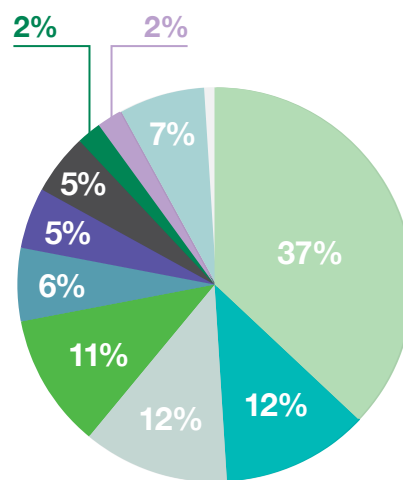
Advice on requesting any information from Scottish public bodies is available at www.itspublicknowledge.info/yourrights

Which sectors' responses are appealed?

2016/17



2017/18³



There has been a significant decrease in the proportion of appeals about local government

- Local government
- Scottish Government and its agencies
- Other public authorities
- Police
- Educational institutions
- Non-ministerial office holders
- The NHS
- Publicly-owned companies
- Bodies not covered by the FOI Act⁴
- Bodies designated under section 5⁵
- Scottish Parliament
- Uncategorised

While, as in previous years, local government remains the subject of the largest number of appeals of any public sector group, this year shows a significant decrease of 9% when compared with 2016/17.

³35 cases received at the end of the year had not yet been categorised

⁴Some organisations not currently covered by the FOI Act may fall within the wider scope of the EIRs, e.g. housing associations.

⁵Ministers can use section 5 to bring bodies in scope of FOI that may not usually be thought of as public sector organisations. Section 5 bodies include leisure and culture trusts, special and grant aided schools, private prisons and secure accommodation providers.



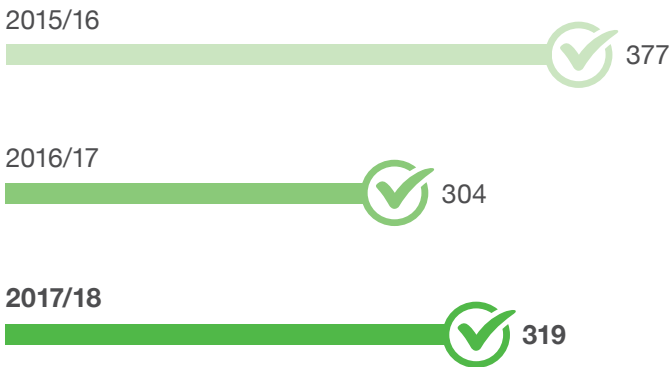
Find out more

To find out more about appeals made against particular authorities, see our decision notices at www.itspublicknowledge.info/decisions

Enforcement Performance: Validation

The Commissioner can only investigate appeals that meet specific legal criteria

Total number of valid appeals



The most common reasons for invalidity of appeals this year were that:

- the appeal did not provide all the required details
- no request for review was made
- the timescales set in the FOI Act for FOI appeals were not met.

We missed our target of having no more than 20% invalid appeals: 30% of the appeals we received were invalid.

There are several reasons why an appeal may be invalid. For example:



it isn't about information requested from an authority which is subject to FOI law

the requester has not first asked the organisation to review its handling of the original request

it is made before the review response has been received, or before 20 working days has passed (whichever is sooner)

the requester has not explained why they are unhappy with the review response

the appeal is late (more than six months after the review response)

the appeal does not provide all the details required by FOI legislation



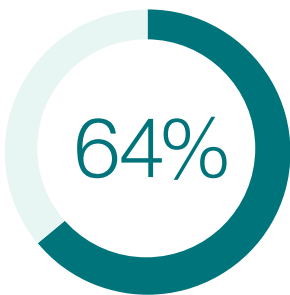
Advice & Assistance

If an appeal isn't valid, we give the requester advice on what they need to do to make it valid

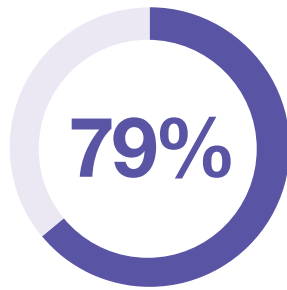
Online appeal service

Using the online appeal service can help requesters to make a valid appeal.

Method of appeal - Validity rate



Appeals by other methods



Online appeal service

Benefits of the online appeal service

Available 24/7

Provides real time help and advice about making an appeal, even when the office is closed

Alerts the user to the most common problems with appeals, and explains how to resolve them

Make an appeal online at www.itspublicknowledge.info/appeal



Look for the **Make an appeal** button on the website

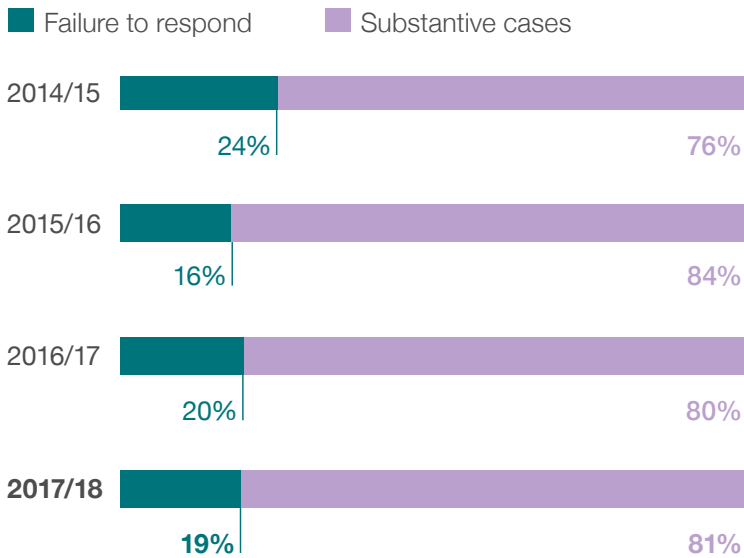


Find out more

We set an ambitious target for the online appeal service: a minimum 40% of appeals received annually to be made online by 2020. See how we're doing on page 31

Enforcement Performance: Investigations

Proportion of valid “failure to respond” appeals



Our aim is that by 2020, no more than **15%** of valid appeals received will be about a failure to respond within the timescales set by FOI law

This year we made additional progress towards that target, as the rate of such appeals declined slightly to **19%**

Investigations over four months

| Appeals closed within 4 months ⁶ | 2015/16 | 2016/17 | 2017/18 |
|---|------------|------------|------------|
| Cases closed without investigation | | | |
| 4 months or less | 163 | 121 | 156 |
| More than 4 months | 0 | 0 | 2 |
| Sub-total | 163 | 121 | 158 |
| Cases closed during investigation | | | |
| 4 months or less | 93 | 63 | 91 |
| More than 4 months | 24 | 15 | 18 |
| Sub-total | 117 | 78 | 109 |
| Cases closed with decision | | | |
| 4 months or less | 118 | 141 | 140 |
| More than 4 months | 113 | 111 | 65 |
| Sub-total | 231 | 252 | 205 |
| All cases | | | |
| Total 4 months or less | 374 | 325 | 387 |
| Total more than 4 months | 137 | 126 | 85 |
| Total cases closed | 511 | 451 | 472 |

The FOI Act requires the Commissioner to report the number of cases that take longer than four months. We aim to resolve the majority of our cases within this period, although our more complex cases will often take longer.



Did you know?

We publish our Enforcement Policy and Investigation Procedures at www.itspublicknowledge.info/briefings

⁶From the date of receipt of the valid appeal

Case closure times: % of cases closed against our target

Our target exceeded ● Our target met ● Our target not met ●

| | Our target | Our performance |
|-----------------------------------|---------------------|-----------------|
| All appeals | | |
| 4 months or less | 70% | 80% |
| 6 months or less | 85% | 95% |
| 12 months or less | 97% | 100% |
| Average closure time | 17.8 weeks or fewer | 14.7 weeks |
| Validation of appeals | | |
| 1 month or less | 80% | 68% |
| 2 months or less | 90% | 97% |
| 3 months or less | 97% | 100% |
| Failure to respond appeals | | |
| 1.5 months or less | 65% | 45% |
| 4 months or less | 100% | 100% |
| Substantive appeals | | |
| 4 months or less | 50% | 64% |
| 6 months or less | 75% | 90% |
| 12 months or less | 95% | 100% |

80%
of cases were closed within 4 months



...the investigations made by your office have been second to none, and I sincerely thank you for your undertakings and thoroughness. Your office does an incredible job...

Thanks – I appreciate the considerable efforts you and your colleagues have put into this.



FOI requesters



Our performance targets

Our investigations performance is assessed against 12 challenging case closure targets. In 2017/18, our performance:

- met or exceeded 10 targets
- missed two targets

The targets we exceeded included those for time taken to decide:

- substantive cases (i.e. our most involved investigations). There was significant improvement in our case closure times for these cases compared to last year. 64% of cases were closed within four months (compared to 51% last year), and 90% of cases were closed within six months (75% last year); and
- all cases: 80% were closed within four months (70% last year); 95% closed within six months (85% last year).

The two targets missed for validation and time taken to decide failure to respond cases were missed at a time of limited validation resource. We have since recruited extra resource into our validation team.

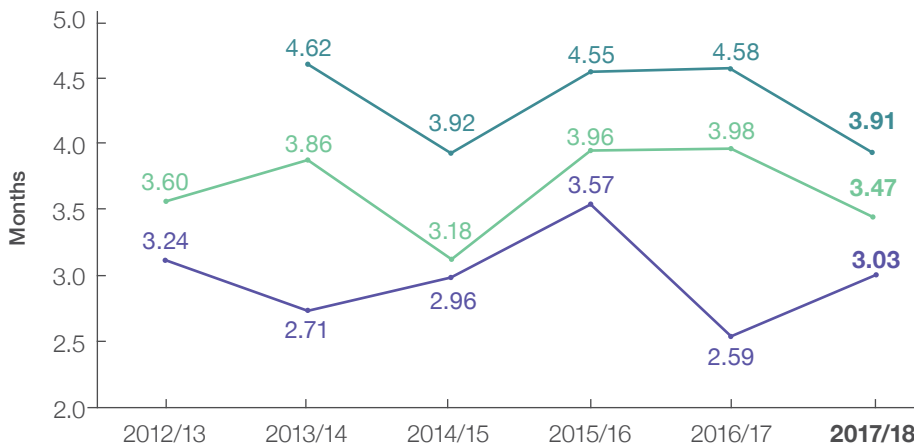


Improving performance

Learn about the work we've carried out on interventions this year on page 6

Enforcement Performance: Investigations continued

Average age (months) of open and closed appeals



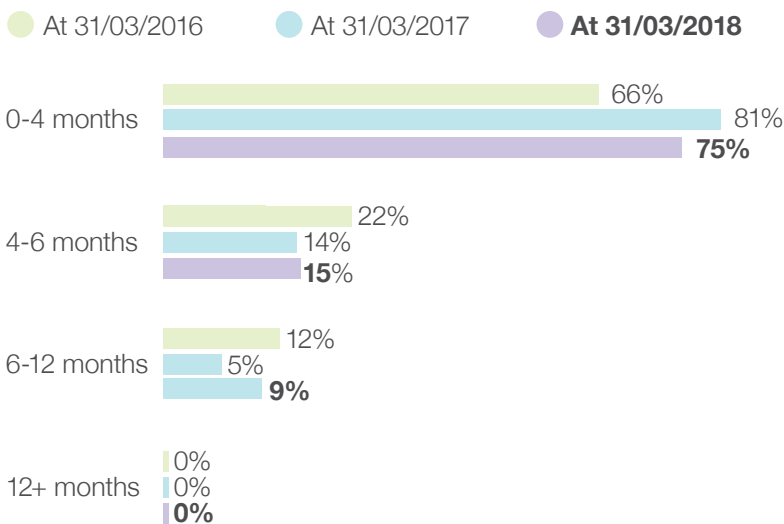
Closed during the year (excluding failures to respond)

Closed during the year (all cases)

Open at end of the year

Average age of closed cases at the end of the year was 3.47 months. Average age of open cases at the end of the year was 3.03 months which was slightly higher than the 2.59 months last year, but better than the previous year, 3.57 months.

Age profile of open cases (%)



We continued our Quality Assurance assessments of investigations in 2017/18 to ensure we complied with our internal procedures. We found compliance with our Investigations Handbook remained very high. For example, in all cases:

- Communication with the parties was professional and courteous
- Informal resolution was considered in all of the cases assessed.

Following noted high compliance, and the resource intensive nature of Quality Assurance, we have reduced its frequency.

Information Notices

An information notice was needed only once this year, when **Highland Council** delayed giving us the withheld information we needed to investigate an appeal. The notice was issued on 21 December 2017. The council complied with the notice.



Find out more

We publish a wide range of data about our performance at www.itspublicknowledge.info/operationalperformance



Improving Performance

Our full Performance and Quality Framework objectives are available at www.itspublicknowledge.info/performanceframework



What's next?

In 2018/19 we will continue to review our Quality Assurance arrangements to develop a simpler, smarter assurance programme

Freedom of Information (FOI): at a glance

| | | |
|---|--|--|
|  <p>FOI gives you a right to receive information</p> <p>more ></p> |  <p>FOI applies to public authorities</p> <p>more ></p> |  <p>The FOI right covers recorded information</p> <p>more ></p> |
|  <p>Your request must be in writing (letter or email)</p> <p>more ></p> |  <p>Public authorities must help you - it's their duty</p> <p>more ></p> |  <p>If you want environmental information different rules apply</p> <p>more ></p> |
|  <p>Authorities must respond within 20 working days</p> <p>more ></p> |  <p>Information is usually provided free of charge</p> <p>more ></p> |  <p>Information can only be withheld if the law allows it</p> <p>more ></p> |
|  <p>If you're unhappy you can appeal</p> <p>more ></p> |  <p>Contact the Commissioner for information and advice</p> <p>more ></p> |  <p>Most requests result in the information being provided</p> <p>more ></p> |

[Back to Top](#)

 [Download our print guide to FOI](#)

Enforcement Performance: Outcomes

An investigation is normally concluded in one of two ways: it is either resolved (to the satisfaction of the requester, before or during the investigation) or the Commissioner completes the investigation and issues a legally-binding Decision Notice, setting out any action to be taken

Appeal outcomes by stage

| | 2016/17 | 2017/18 |
|---|------------|------------|
| Brought forward from previous year | 123 | 97 |
| New appeals | 425 | 507 |
| Total caseload | 548 | 604 |
| Closed without investigation | | |
| Reason for closure: | | |
| Premature or "out of time" | 29 | 30 |
| Withdrawn or abandoned | 19 | 22 |
| Resolved | 0 | 1 |
| Excluded under s.48 ⁷ | 9 | 6 |
| Non-compliance with s.47 ⁸ | 18 | 45 |
| Body not subject to FOI | 3 | 9 |
| No request for review made | 30 | 34 |
| No request to public authority | 13 | 11 |
| Sub-total | 121 | 158 |
| Closed during investigation | | |
| Reason for closure: | | |
| Withdrawn or abandoned | 6 | 11 |
| Resolved | 72 | 98 |
| Frivolous or vexatious | 0 | 0 |
| Sub-total | 78 | 109 |
| Closed with a Decision Notice | | |
| Decision outcome: | | |
| For authority | 67 | 71 |
| For requester | 102 | 90 |
| Partially upheld | 83 | 44 |
| Sub-total | 252 | 205 |
| Total appeals closed | 451 | 472 |
| Total appeals carried forward to next year | 97 | 132 |

Our total caseload fluctuates from year to year; it was higher this year than last year, when there had been a dip in numbers of appeals. However, more appeals have closed either without investigation or during investigation, resulting in fewer Decision Notices being issued this year than last year.

⁷ Under section 48 of the FOI Act the Commissioner cannot investigate cases involving himself, procurators fiscal or, in most cases, the Lord Advocate.

⁸ An appeal will be invalid if it doesn't comply with the requirements of section 47 of the FOI Act, which sets out what details the appeal must contain.



Find out more

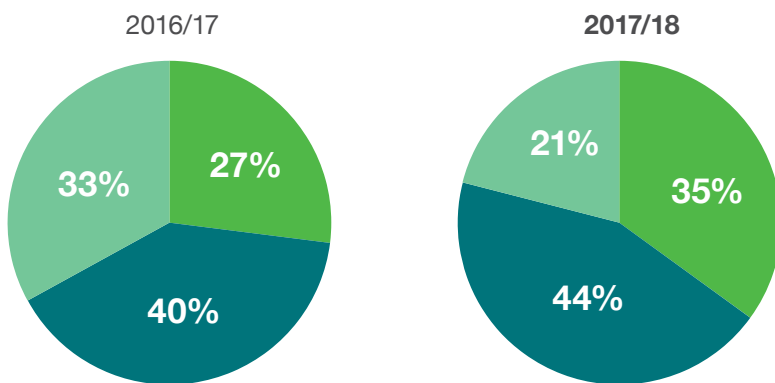
Pages 14-15 explain when an appeal will be invalid, and how our online appeal service can help

What does the Commissioner decide?

Decision outcomes

● For authority ● For requester ● Partially upheld

65% of decisions found wholly or partially in favour of the requester



Guidance and briefings for public authorities

We reviewed and updated our detailed briefings on how the exemptions in the FOI Act work. We added commentary on relevant recent cases.

We also produced a new series of briefings on the individual exceptions in the EIRs and reviewed our general guidance on the regulations, for example on the definition of environmental information and which bodies are subject to them.

Also new in 2017/18 is guidance on “information not held”. This provides a plain language explanation, with reference to case examples, of the concept of information which is held on behalf of another party. It also gives advice about ensuring searches for information are adequate, and responding to requests when the authority does not hold the information.



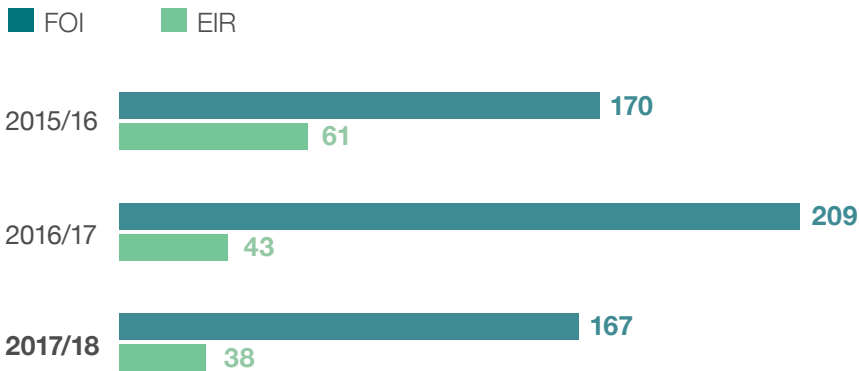
Find out more

Read our Exemption and Exceptions Briefings at www.itspublicknowledge.info/briefings

Enforcement Performance: Outcomes

continued

Decisions issued by legislation



We issued 38 decisions under the EIRs

19%
of the Commissioner's decisions were EIR cases

Valid cases closed



Your guidance is very welcome... I commend the work of your office.



FOI requester



Find out more

All our decisions are available to read at www.itspublicknowledge.info/decisions

The Commissioner's decisions

The Commissioner issued 205 decisions this year. Significant decisions included:

- Decision 019/2018, where the Commissioner ordered disclosure of the name of a councillor in council tax arrears and provided a list of criteria for local authorities to consider when dealing with similar requests
- Decision 191/2017 about the environmental impact of sea lice medication used in salmon farming. For the first time, the Commissioner found that the requested environmental information related to “emissions”, meaning that the exception relied on to withhold the information could not apply.

Other high profile topics covered in decisions this year included:

| Topic | Decision |
|---|----------|
| The Deputy First Minister's engagement on the “Named Person” policy under the Children and Young People (Scotland) Act | 139/2017 |
| The independent report into the management of Hazlehead Crematorium during the “baby ashes” scandal | 112/2017 |
| Significant adverse event reports prepared following critical incidents (or near misses) by NHS Lothian | 099/2017 |
| Cost of repairs to the DG One Leisure Centre in Dumfries, which was closed following legal action against the contractors | 080/2017 |

Appeals to the Courts

If either party to an appeal thinks that the Commissioner has made a legal error in the decision, they can appeal to the Court of Session.

Of 205 decisions issued, only one was appealed to the court in 2017/18 (Decision 152/2017). Our decision upheld the Scottish Prison Service's view that a request was vexatious. At the time of writing this report, legal aid has been granted and the case is ongoing.

There was also an ongoing court appeal from last year. It involved Decision 222/2016, which ordered Police Scotland to disclose how many Covert Human Intelligence Sources it had had since the single force was created. The court hearing took place in June 2017, and the court found in our favour.

We also successfully intervened in an application for judicial review. The requester asked the court to review the Scottish Legal Aid Board's decision not to grant legal aid to fund an appeal to the Supreme Court of the UK against one of our decisions from 2011. The requester was not successful in the judicial review.

The Commissioner's policy is to seek legal expenses following the successful defence of an appeal where appropriate. This recognises that the Commissioner is a publicly-funded official with a responsibility for good financial management.

Enforcement Notices

The Commissioner can issue an Enforcement Notice where a public authority has not complied with certain duties under the FOI Act. No Enforcement Notices were issued this year.



We met our target of successfully defending 100% of the appeals where an error of law in our investigation was alleged.



Find out more

We publish the costs of our court cases at www.itspublicknowledge.info/expenditure

FOI Improvement Performance:

Monitoring and improving practice

Conferences, events and networks

We organise and support a wide range of events and engagements, aimed at improving awareness, sharing practice and encouraging networking.

Centre for FOI Practitioners' Conference

May 2017

With the Centre for FOI we deliver an annual conference for practitioners.

Highlights in 2017 included presentations on the General Data Protection Regulation (GDPR), the Magyar case (access to information and human rights), and workshops on proactive publication and the exemptions to protect free and frank discussion.

- 95% told us they had learned something to help them do their job.
- 95% of delegates rated the conference as “good” or “excellent”.
- 97% of delegates would recommend the conference.
- 99 delegates from across the public sector attended.



I found it very beneficial being able to network and share best practice.

Opportunities to gather information about upcoming changes from the experts.



2017 Delegates

Holyrood FOI Conference

December 2017

In December, we supported Holyrood Conferences' annual FOI conference.

This year's event focussed on how governments use and share information and what impact this has on government efficiency. We contributed to innovative masterclasses on:

- The implications of the GDPR for FOI
- Navigating the EIRs
- Sharing FOI lessons and ideas.



The FOI Conference is excellent for information about the latest relevant developments and interesting, useful discussions on practice and policy.

I always learn something new and worthwhile when I attend this event.



2017 Delegates

Regional roadshows

We completed our regional roadshow programme this year, having visited all of the areas we planned to reach with our bespoke FOI training. This was the fourth year in which we ran the programme, which aimed to take the Commissioner’s staff “on the road”. In 2017/18 we visited Greater Glasgow and Fife.

Public authority roadshows

Audiences included staff from local councils, health boards, universities, independent special schools, and integration joint boards.

Greater Glasgow: 91 delegates from 16 public bodies

Fife: 28 delegates from 5 public bodies



- 99% rated the day “excellent” or “good” ✓
- 99% would recommend the event to others ✓
- 97% felt better equipped as a result of the roadshow ✓
- 99% felt more confident as a result of the roadshow ✓

Feedback from delegates (average across both roadshows).

99%

We exceeded our target of 80% of participants rating our roadshow events as “good” or “excellent”



As someone who has recently joined FOI, I found today very informative and useful. Very good networking opportunity.

Excellent and engaging. I thoroughly enjoyed it and gained more information.

Thank you, really enjoyed the day. These roadshows are very helpful and it’s great to get an insight into issues other authorities face.

Useful and enjoyable course. I enjoyed the interactive elements.



2017 Delegates

FOI Improvement Performance:

Monitoring and improving practice continued

Practitioner network meetings

We continue to participate regularly in FOI practitioner group meetings from different parts of the public sector. We provide regular updates about new FOI developments, respond to enquiries and deliver occasional training to these groups to support the development of skills and knowledge.

The new FOI group of Part 7 bodies increased its membership to 70 representatives of non-departmental public bodies, regulators, Parliamentary office holders, etc.

In August we convened the first meeting of an Emergency Services FOI Group: a forum for Police Scotland, Scottish Fire and Rescue and the Scottish Ambulance Service.

Want to get involved in a network?

Contact us enquiries@itspublicknowledge.info

Advisory Group

Last year we established an Advisory Group of practitioners to consult with and take advice from on FOI practice areas. The group met twice in the year to share experience with the Commissioner and to discuss current FOI topics. A significant feature of the last year has been change in public authority FOI arrangements

Decisions round-up

The Commissioner publishes a regular round-up of the key learning points from Decisions, as well as learning from the cases we resolve without the need for a formal Decision. Though readership of this publication declined during the year, this publication continues to reach between 150 and 200 readers per edition.



- **35** round-ups issued in 2017/18
- Published online at www.itspublicknowledge.info/roundup
- Sent by email to over **1,000** subscribers
- Average readership decreased by **21%**

Knowledge hub



Membership increased from 108 to 118

Though it has been challenging to encourage active discussion, the forum continues to be a valuable way to alert members to new developments.

E.g. A discussion about using customer relationship management systems to manage FOI requests prompted authorities to share examples of practice.

The forum is expected to provide support to registered social landlords preparing for FOI in the forthcoming year, both as a link to support from experienced practitioners and a means of sharing draft procedures and templates.

Self-Assessment Toolkits

Our Self-Assessment Toolkit supports public authorities to improve their performance in various aspects of FOI and EIR request handling. We published the fourth module in our self-assessment toolkit in June 2017, focussing on good practice when publishing information.

We also consulted with our Advisory Group on the development of two further toolkit modules: one focussing on undertaking reviews, which is nearing completion and will be published in 2018/19, and a second on monitoring and managing FOI performance, which we will develop in 2018/19.



Find out more

All of our published toolkits are available at www.itspublicknowledge.info/toolkits



What's next?

We aim to increase our subscribers (to all our communications) by 20% by 2020

Statistical data

We continue to collect quarterly public authority FOI statistics about the volume of information requests received and how they have been responded to. This year, over 77,000 requests were recorded by public authorities, an increase of over 3,000 on the previous year.

Authorities continue to report increasing numbers of information requests

Public authority statistical data: highlights

| | 2015/16 | 2016/17 | 2017/18 | % Change |
|--|---------------|---------------|---------------|----------|
| Total reported requests | 68,156 | 74,213 | 77,528 | ↗ 5% |
| FOI requests | 60,567 | 66,467 | 68,827 | ↗ 4% |
| EIR requests | 7,196 | 7,746 | 8,701 | ↗ 12% |
| % EIR requests | 10.5% | 10.4% | 11.2% | ↗ 0.8% |
| FOI cost refusals | 2,057 | 2,453 | 2,321 | ↘ 5% |
| % (of total) FOI cost refusals | 3.4% | 3.7% | 3.4% | ↘ 0.3% |
| Vexatious, repeated or manifestly unreasonable refusals | 315 | 285 | 379 | ↗ 33% |
| % vexatious, repeated or manifestly unreasonable refusals | 0.5% | 0.4% | 0.5% | - |
| Failure to respond | 295 | 583 | 601 | ↗ 3% |
| % failure to respond | 0.4% | 0.8% | 0.8% | - |
| Response: full disclosure | 39,066 | 41,615 | 42,231 | ↗ 1% |
| Response: partial disclosure | 11,790 | 13,682 | 14,761 | ↗ 8% |
| % full or partial disclosure | 75% | 75% | 74% | ↘ 1% |
| Response: information withheld | 5,345 | 5,137 | 6,155 | ↗ 20% |
| Response: information not held | 6,328 | 6,872 | 7,539 | ↗ 10% |
| Total reviews | 1,966 | 1,816 | 1,650 | ↘ 9% |
| % of requests reviewed | 2.9% | 2.4% | 2.1% | ↘ 0.3% |
| Appeals to the Commissioner | 540 | 425 | 507 | ↗ 19% |
| % of requests appealed | 0.8% | 0.6% | 0.7% | - |



Authorities used the provisions that allow requests to be refused because they are vexatious, repeated or manifestly unreasonable on 379 occasions, an increase of **33%** on last year.



Find out more

You can view and search the full statistics database at <https://stats.itpublicknowledge.info>

FOI Improvement Performance:

Monitoring and improving practice continued

General Data Protection Regulation (GDPR) and FOI

We worked with the Westminster Government to ensure that the necessary changes were made to FOI law to comply with the GDPR and the Data Protection Act 2018.

From December 2017, our staff delivered talks and training sessions on the proposed changes, and we undertook a programme of work to ensure our own processes would be compliant with the new rules.

University of Dundee research project: Access to environmental information

January 2017 saw the launch of an Economic and Social Research Council funded research project, undertaken by the University of Dundee. The project, which will run until 2020, is examining the use of the right to access environmental information in Scotland, exploring how the right is being used, and the extent to which the EIRs meet their intended aims.

The Commissioner has joined the Advisory Board for this exciting new project.



What's next?

While it's too early to tell what the precise impact of the data protection changes to FOI will be, the changes are intended to maintain the status quo as far as possible

FOI Improvement Performance:

Raising awareness and improving access

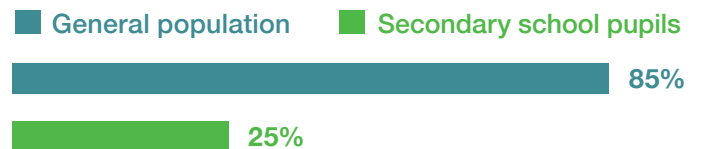
We promote awareness of FOI rights to the public, ensuring people know they have rights and know how to use them to access the information they want to see

Monitoring awareness

We aim to ensure that at least 80% of the public have heard about their FOI rights. Our research has consistently shown high levels of public awareness of FOI law in Scotland (85% of respondents to our research in March 2017).

However, awareness among children and young people is significantly lower. We commissioned new research within the Ipsos MORI Young People in Scotland survey⁹ to provide a better understanding of the issue.

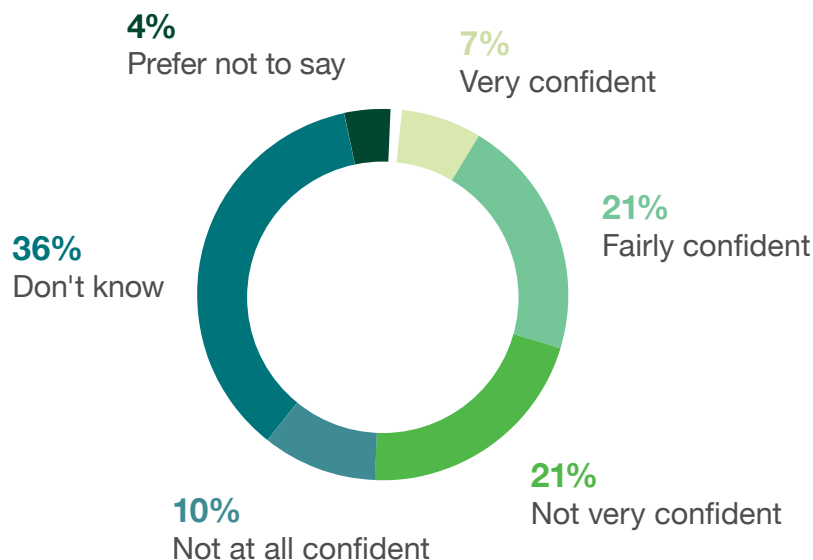
Public awareness of FOI



Only 25% of young people surveyed know they have FOI rights

Confidence in receiving a response to FOI request

Only 28% of young people surveyed are confident they would receive a response to an FOI request



The findings of this research are concerning....FOI is open to everyone, and it's important that young people know this. They have the same right as anyone else to access information about public services and decision-making on the issues that affect them; whether it be related to education, health care, recreational facilities, public safety or any other issue.



Daren Fitzhenry, Scottish Information Commissioner

Other findings:

- 26% would know how to go about asking for information from a Scottish public body
- 39% agreed that Scottish public bodies are more likely to respond to a request for information from an adult than from a child or younger person.

⁹This involved a survey of 1,781 secondary school pupils (S1-S6), carried out between September and November 2017.

FOI Improvement Performance:

Raising awareness and improving access continued

Raising awareness: civil society activities

Children and young people

We shared the results of the young people's FOI awareness survey with the Scottish Youth Parliament and contributed to their Rights Week in December, producing an animated video to introduce FOI rights to young people. This initiative achieved 5,973 "impressions" on Twitter.



In 2018/19 we will deliver a consultation workshop on children's and young people's awareness of their FOI rights at a sitting of the Scottish Youth Parliament. We will also publish a case study for children and young people to provide examples of why the FOI right may be useful to them.

Scottish Public Information Forum (SPIF)

We attended and provided updates to the three meetings of the newly re-invigorated SPIF. We participated in lively discussions between non-governmental organisations, public authorities and information requesters.

Open Government Forum

We strengthened existing links with this Forum, the civil society "arm" of the Open Government Partnership, by participating in online discussions and attending meetings on open contracting and engagement with the media. The Forum provides a way for us to listen to different perspectives and experience and better understand how people are using open information to engage with the public sector in Scotland.

FOI training and briefings

We delivered FOI workshops to post-graduate journalism students at Napier University and to public law undergraduates at the University of Dundee.

We participated in the "Symposium by the Sea" event organised by media outlet "The Ferret" in September, discussing a wide range of topics and experiences of access to information, openness and transparency.



FOI is a crucial enabler, allowing people to raise concerns, take part in a discussion, or campaign in an informed way.



Daren Fitzhenry, Scottish Information Commissioner



Find out more

Our at-a-glance guide to FOI is at www.itspublicknowledge.info/yourrights



Find out more

Watch our video introducing FOI to young people at twitter.com/FOIScotland/status/939109143348154368



What's next?

During the Year of Young People (2018), we are planning more work to raise awareness among children and young people

Our Communication Strategy

The Commissioner’s main communication tools are:

- the website www.itspublicknowledge.info; and
- Twitter account [@FOIScotland](https://twitter.com/FOIScotland)

We set four performance measures for our 2016-2020 Communication Strategy:

| Measure to be achieved by 2020 | Progress made in 2017/18 |
|--|---|
| A minimum of 40% of all appeals received annually to be made via the online appeal service | We continued to make positive progress towards this target: 26% of appeals were made via the online appeal service |
| 20% increase in the total number of subscribers to content via our website (from 1,017 to 1,220) | We met this target. The current number of registered subscribers has risen to 1,418, a 15% increase against last year |
| 20% increase in the number of annual unique website users (from 54,000 to 64,800) | The number of unique (or individual) users was 52,839 (a 4% decrease over the previous year), and is significantly short of the annual improvement required to meet the four year target. We will be working to improve the usability and accessibility of our website during 2018/19 |
| Increase in read receipts for communications about important changes or developments in FOI to 75% | The average proportion of emails opened, across eight mailings, was 40%, considerably short of the 2020 target, and below the previous year |



Find out more

For more about the online appeal service, see page 15



What's next?

We are reviewing how we offer subscriptions to ensure we use the most effective communication routes

FOI Improvement Performance:

Raising awareness and improving access continued

International Conference of Information Commissioners (ICIC)

This biennial Conference was hosted in Manchester in September by the Scottish Information Commissioner and the (UK) Information Commissioner's Office. The event received financial support from the Scottish Parliamentary Corporate Body.

The Conference was attended by information commissioners, ombudsmen and staff from 70 FOI jurisdictions from around the world. A live-streamed open conference on 20 September attracted 241 delegates to consider the following topics:

- Innovations in access to information
- The future of transparency
- Global models for access to information and how well they work
- Journalists, access to information and open data
- Progressive information rights and how we can achieve them.

The Conference passed a resolution on right of access to information and accountability of public services, acknowledging the international challenge of scrutinising public expenditure when services are outsourced to contractors, and the resulting impact on accountability and transparency.

Commissioners resolved to:

- Encourage initiatives to improve access to information legislation in relation to contracted out services
- Promote global initiatives that provide standards for open contracting
- Set up a working group to share practice in this area, and report back to the 2019 ICIC Conference (we are participating in this group).



Following the conference, we were invited to support a major event promoting access to information in the Philippines. For this, we developed an animated video, sharing our top 12 tips to help deliver effective FOI.

FOI Improvement Performance:

Raising awareness and improving access continued

Consultations, evidence and reports

The Commissioner responded to three Scottish Government consultations, and gave written and oral evidence to the Scottish Parliament.

| | | |
|--|---|--|
| Apr 2017 | Special report on proactive publication, laid before Parliament by Rosemary Agnew before leaving the post of Scottish Information Commissioner | The report called for debate about a radical re-think of freedom of information, with a greater focus on proactive publication, arguing that: <ul style="list-style-type: none"> • FOI law gives insufficient weight to publishing information and needs to be updated to meet changing public expectations and technological advances • Access to information law and policy needs to be strategically reviewed |
| Oct 2017 (further submission in Dec 2017) | Evidence provided to Scottish Parliament's Local Government and Communities Committee on how the Housing (Amendment) (Scotland) Bill may affect the public's right to environmental information | <i>"I am concerned the Bill...may result in the removal of [Registered Social Landlords] from the scope of the [EIRs]"</i> |
| Oct 2017 | Response to Transport Scotland on raising standards and improvement of Scottish road works, and a proposal to repeal an obligation in road works legislation to make the Scottish Road Works Register (SRWR) available for inspection. We highlighted duties to publish this information under the INSPIRE (Scotland) Regulations 2009 and the EIRs | <i>"...[the Scottish Road Works Commissioner] is already under the statutory duty...to allow public access to the [Scottish Road Works Register]...even in the event of the repeal, the SRWC would continue to be under statutory duties to make the information in the SRWR public"</i> |
| Dec 2017 | Response to Scottish Parliament's Public Audit and Post-legislative Scrutiny Committee on proposed post-legislative scrutiny of the FOI Act | We suggested that there are a number of aspects in the legislation which would benefit from such a review and offered assistance to the committee |
| Mar 2018 | Response to Scottish Government's consultation on a draft order to extend coverage of the FOI Act to registered social landlords and their subsidiaries, including suggestions about wording of the Order to increase certainty about which bodies it will apply to, and the timing of it coming into force | <i>"I welcome the proposal to include registered social landlords' subsidiaries within the scope of the Order. The definition of the bodies to be included does, however, give rise to practical issues in identifying which subsidiaries are subject to the Order [...] Certainty about which bodies are subject to the Order is particularly important to the efficient delivery of my functions"</i> |



Find out more

All the responses and evidence submitted by the Commissioner can be read at www.itspublicknowledge.info/reports

FOI Improvement Performance:

Publishing information

Adoption of publication schemes

We completed notification of publication scheme adoptions by five new bodies. Three were new bodies brought under jurisdiction by primary legislation and we became aware of two publicly-owned companies that had not yet adopted a publication scheme. We did not meet our internal time targets for completing the notifications.

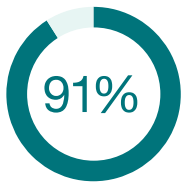
We also completed notification for 22 older publication scheme cases, including Integration Joint Boards and an

old case dating back to 2011 (Perth and Kinross Sports Council). We carried no cases forward to 2018/19.

We are preparing for a considerable publication scheme workload in 2018/19 and 2019/20 as registered social landlords and subsidiaries are likely to be required to comply with the duty (and notify the Commissioner that they have done so) for the first time.

Model Publication Scheme monitoring

We reported the findings from our second wave of mystery-shopping style research in May 2017:



91% of public authorities provided one or more types of information relating to decision making (minutes of meetings, agendas, strategies and plans) online, but only 54% provided all three



Of those subject to the Re-use of Public Sector Information Regulations 2015, very few made specific reference to the regulations, with only a small number referring to having a policy



79% were not publishing open data through their Guides to Information (a new class of information introduced in May 2016 to support the Scottish Government's Open Data Strategy)



In most cases, where researchers asked authorities for advice and assistance to find published information, they got a helpful response quickly

We also commissioned the third wave of research, from Craigforth Ltd, with the research beginning in March 2018. In addition to monitoring the availability and accessibility of Guides to Information, and advice and assistance offered by authorities, we also looked specifically at authorities' practice in publishing information about two key areas: procurement and how the authority makes decisions.



Find out more

The reports from publication scheme monitoring are available at www.itspublicknowledge.info/reports

Performance Analysis: Enquiries

The Commissioner has a duty to promote good practice and a power to give advice on the operation of FOI. One of the ways we do this is by providing an Enquiries Service to the public and to public authorities. The Commissioner recognises the importance of good performance and quality in the delivery of this service.

The Enquiries Service is one of the main points of contact for the organisation and anyone with a question about FOI can contact us for advice. The total enquiries received for 2017/18 was 1,573, very similar to the number for 2016/17 (1,564).

The majority of enquiries concerned advice on making and responding to information requests, making requests for review and making appeals (585 enquiries). We also provided information on the referral of matters to the UK Information Commissioner's Office (324 enquiries).

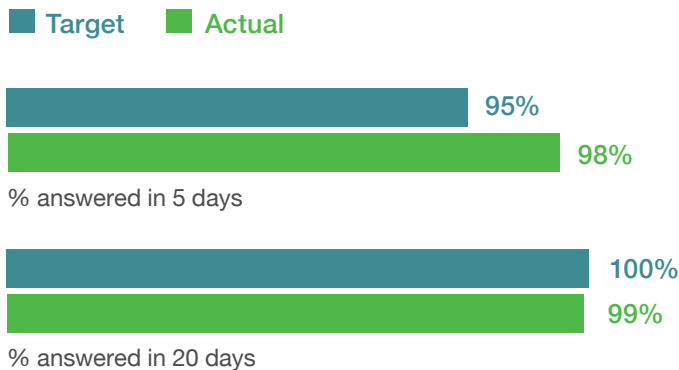


Thank you very much for your swift, comprehensive and helpful reply.



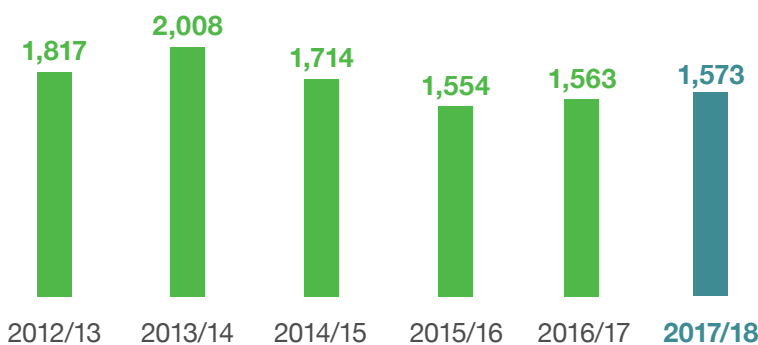
Enquirer

Enquiry response targets



98% of enquiries were answered within 5 days

Total enquiries by year



We've answered more than **22,000** enquiries since FOI was introduced in 2005

The number of enquiries we received in 2017/18 was **1,573**, broadly similar to last year

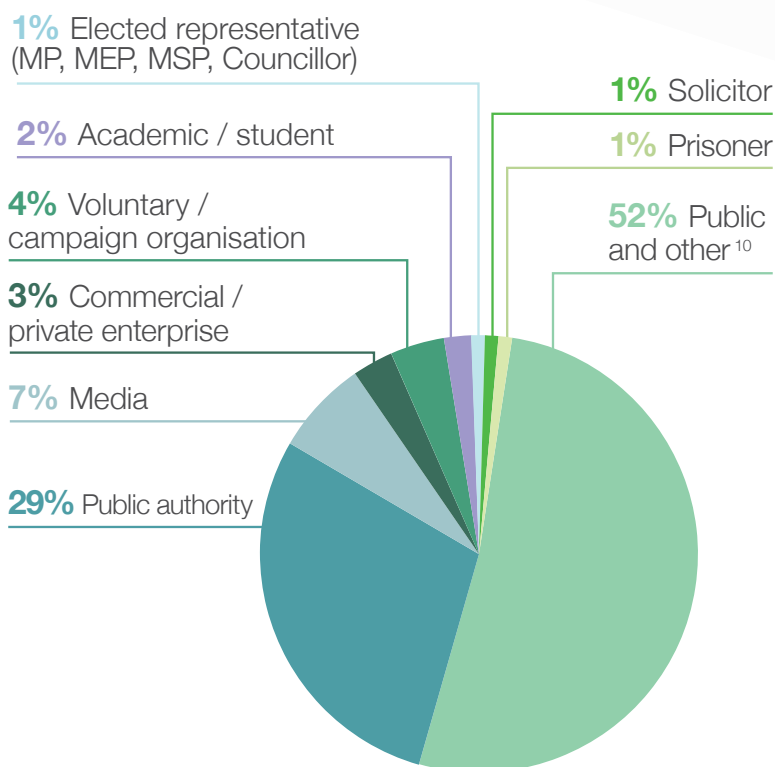


Did you know?

Of all the compliments we received in 2017/18, 28 concerned our response to enquiries, see page 42

Type of enquirer 2017/18

There was a small increase in enquiries from voluntary and campaign organisations



Most of our enquiries are from the public

“ Many thanks for this and please thank the Commissioner for the great service rendered.

”
Enquirer



Got a question?

Contact us on 01334 464610 or enquiries@itspublicknowledge.info

Community, social and human rights

We are committed to conducting our work to the highest standards and building positive relationships with communities across Scotland. FOI laws give anyone, anywhere in the world, the right to access information held by Scottish public authorities. There is an established connection between the right of access to information and other equality and human rights. People often use their FOI rights to access information to help them to

participate in social and community engagement, particularly with the public sector. Where they are dissatisfied with the response to an information request they may appeal the case to the Commissioner.

Therefore we regularly see social and community engagement issues in appeals and enquiries to our office. We monitor public awareness of the right to information and promote effective use of FOI rights

to the public and civil society organisations. For more information about this work, see page 30.

We do not have a corporate charity but our staff have raised money through a range of internal and external activities for the following charities and good causes:

- **Hearing Dogs for Deaf People**
- **Maggie’s Cancer Caring Centres**

¹⁰ “Public and other” represents all individual members of the public with no identified affiliation to an organisation or group.

Performance Analysis:

Information requests

Information requests

| Requests for information, review and subject access requests | 2016/17 | 2017/18 |
|---|------------|-----------|
| Brought forward from previous year | 4 | 7 |
| New requests | 120 | 87 |
| FOI Requests | 120 | 86 |
| EIR Requests | 0 | 1 |
| Total requests | 124 | 94 |
| Requests closed | 117 | 93 |
| Information provided in full | 18 | 13 |
| Information partially supplied | 24 | 15 |
| Information not held by the Commissioner | 59 | 59 |
| Information not supplied | 16 | 6 |
| <i>Clarification not provided</i> | 0 | 2 |
| <i>Request withdrawn</i> | 6 | 2 |
| <i>Repeated requests</i> | 0 | 1 |
| <i>Request vexatious</i> | 1 | 0 |
| <i>Exempt</i> | 7 | 1 |
| <i>Neither confirm nor deny</i> | 1 | 0 |
| <i>Information request invalid</i> | 1 | 0 |
| No. of requests open at end of year | 7 | 1 |
| No. of times a fee was charged | 0 | 0 |
| Requests for review | 14 | 3 |
| Internal review upholds original decision in full | 10 | 2 |
| Internal review partially upholds original decision | 1 | 0 |
| Internal review – substituted a different decision | 1 | 0 |
| Request for review invalid | 2 | 1 |
| No. of requests for review open at end of year | 1 | 0 |
| Subject Access Request (Data Protection Act) | 20 | 11 |
| Proportion of requests for information answered within statutory timescales: | | |
| No. of requests answered within statutory timescales | 117 | 93 |
| No. of requests answered outwith statutory timescales | 0 | 0 |
| % of requests answered within statutory timescales | 100% | 100% |

| 2017/18 | Target | Achieved |
|---|--------|----------|
| % of requests for information answered within 5 days | 60% | 68% |
| % of requests for information answered within 20 days | 100% | 100% |
| % of review requests answered within statutory timescales | 100% | 100% |

As a Scottish public authority, we are also subject to FOI law and must respond to requests for information which we hold. We are also subject to the data protection legislation and must respond to subject access requests. In 2017/18 we received 101 information requests, requests for review and subject access requests and we met all of our targets in responding to these requests:

- 68% of requests were answered within 5 working days (target is 60%).
- 100% of requests were answered within 20 working days (target is 100%).
- 100% of requests for review were answered within 20 working days (target is 100%).
- 100% of subject access requests were answered within 40 calendar days.

Half of all requests made to us were sent to us in error asking for information which is likely to be held by other authorities



Advice & Assistance

If we don't hold information, we point the requester to where they might get it (if we know), or tell them about relevant information we do hold

Performance Analysis:

Operational performance

Governance framework

We have comprehensive and detailed governance arrangements in place and review these arrangements annually. These arrangements are published on our website and can be found at: <http://www.itpublicknowledge.info/home/AboutSIC/Governance/GovernanceFinance.aspx>

The current Governance Reporting Arrangements include 37 reporting measures and all 37 reporting measures were achieved for 2017/18.

In 2017/18, a project to review the Commissioner's procurement policy was undertaken. The revised policy, guidance and procedures reflect the framework and statutory guidance published under the Procurement Reform (Scotland) Act 2014.

Corporate management

We assessed performance against the Operational Plan 2017/18 each quarter and this enabled the on-going monitoring of outcomes and the management of resources, helping to ensure that the office functioned as efficiently and effectively as possible.

Statutory reporting

The Commissioner's statutory reporting duties to the Scottish Parliament are to:

- lay an Annual Report
- lay audited accounts
- lay a four-year Strategic Plan.

We also have a duty to report the following in accordance with the Public Services Reform (Scotland) Act 2010 (the PSRA):

- Expenditure in relation to
 - public relations
 - overseas travel
 - hospitality and entertainment
 - external consultancy
- Payments which have a value in excess of £25,000
- The number of individuals within the organisation that receive remuneration in excess of £150,000
- Gifts given and received.

The PSRA also requires the Commissioner to report on the measures taken to:

- improve efficiency, effectiveness and economy in the exercise of his functions - the work undertaken to meet these requirements is described throughout this report
- promote and increase sustainable growth – this report is set out on page 40.

We also have statutory duties to provide reports on the following:

- Prescribed Persons (Reports on Disclosures of Information) Regulations 2017 - the Commissioner is a "prescribed person" for the purpose of the Public Interest Disclosure Act 1998, which deals with whistleblowing
- Biodiversity - in 2012 the Wildlife and Natural Environment (Scotland) Act 2011 introduced a requirement for all public bodies to report publicly on their compliance with the biodiversity duty. Biodiversity duty reports are required every three years. This requirement was unfortunately previously overlooked but our report is now available on our website.

We have complied with our statutory reporting duties in 2017/18.

Performance Analysis: Operational performance continued

Environment

We are committed to improving efficiency in how we function as an organisation and in how the office is managed. This commitment extends to furthering the conservation of biodiversity in identifying and taking action where possible.

Under our Environmental Policy we have an aim to improve our environmental performance and to help to protect the environment by reducing pollution and resource consumption and operating in a manner that supports and encourages biodiversity. In 2017/18 we:

- improved sustainability
- reduced our carbon footprint
- encouraged staff to use public transport
- recycled as much as possible
- used white boards where possible
- used telephone conferencing in addition to face to face meetings
- bought an artificial Christmas tree which can be reused
- selected the most environmentally friendly products for cleaning where possible.

Sustainable Growth

Achieving sustainable growth is a challenge as we are a small, single site organisation. We meet this challenge through the objectives set out in the Environmental Policy and aim to manage and, where possible, reduce any impacts on the environment from our activities.

Although our primary function is to enforce and promote Scotland's FOI law, we make a direct contribution to sustainability by actively managing our carbon footprint which has reduced since 2007/8.

Our carbon footprint for 2017/18 was 31.2 tonnes CO₂e which has reduced from 2016/17 (32.6 tonnes CO₂e). The carbon footprint can be broken down as follows:

Our carbon footprint (units in tonnes CO₂e)

1.51 Paper waste sent for recycling

0.12 Water used in building (mains) and waste disposal

0.54 Business: personal cars

0.01 Business: buses

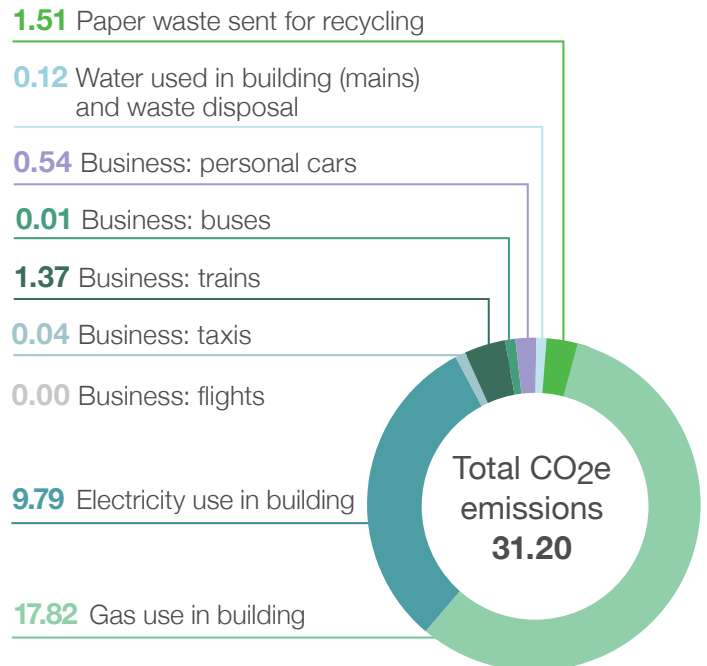
1.37 Business: trains

0.04 Business: taxis

0.00 Business: flights

9.79 Electricity use in building

17.82 Gas use in building



Carbon footprint by year

Our baseline started in 2007/08 and since 2015/16 we have continued to reduce our carbon footprint



Find out more

Our full accounts, PSRA reports and statement on sustainable growth are published online at www.itspublicknowledge.info/FinancialPerformance

Performance Analysis:

Operational performance continued

Compliments recorded 2017/18

We recorded 83 compliments and a wide range of staff have been complimented on prompt responses, good working relationships, quality of responses given, standard of work and website development.

“I would ... like to take this opportunity to thank you and your organisation for the thoroughness and professionalism of approach...”

“Thank you very much for your assistance in this matter; without your input I would not have received this additional information.”

“This is just superb ...”

“I can’t believe how helpful you’ve been.”

83
compliments
recorded 2017/18

“I genuinely have faith in you and every single person I have been in contact with... The assistance and open and honest advice I have received along with the time patiently given so far has been exemplary.”

“I would like to take this opportunity to thank the Commissioner and Head of Enforcement for the incisive way in which they have dealt with my case. The decision has, I believe, set a clear precedent which will significantly improve the transparency of decisions regarding senior staff remuneration...”

“You have been very helpful and, I must say, astonishingly quick. First class service...”

“I would wish to take this opportunity of saying well done... good customer service.”

Complaints about our services

| | | Performance target | Our achievement |
|-----------------------|---|--|---|
| Complaints received | 7 | | |
| Resolved at frontline | 4 | 95% resolved in 5 days 100% resolved in 10 days | 25% resolved in 5 days 50% resolved in 10 days (100% resolved in 20 days) |
| Investigated | 2 | 95% resolved in 20 days 100% resolved in 40 days | 50% resolved in 20 days 100% resolved in 40 days |
| Withdrawn | 1 | | |
| Upheld | 0 | Less than 20% of complaints upheld or upheld in part | 100% not upheld |

We received seven complaints, four less than last year. All of the complaints related to an aspect of our working practices. Frontline Resolution resolved four of the complaints and three were investigated. Of these, two complaints were not upheld and one complaint was withdrawn.

Information and records management

Managing our records

The Commissioner recognises and promotes good records management. The efficient and secure management of information is an ongoing priority. During 2017/18 we:

- managed records effectively in line with our Information and Records Management Policy and Handbook
- updated our procedures to ensure that our data handling is compliant with the GDPR and the Data Protection Act 2018
- enhanced the security of our information
- met our target to maintain a compliant publication scheme and guide to information – we ensured that we published and made accessible as much information as possible.

We also undertook a project to enhance the information provided on how we take decisions and what we have decided. We will continue to publish minutes of the Senior Management Team when it meets formally (every quarter). In addition, from April 2018, we will be publishing agendas and committee reports (and related papers) unless the information is exempt from disclosure under the FOI Act or the EIRs.

“

Thank you,
your advice was
comprehensive,
as ever!

”

FOI requester

Re-Use of Public Sector Information

The Commissioner continues to comply with the Re-Use of Public Sector Information Regulations 2015 by:

- publishing our public task statement
- publishing our re-use statement
- making all of the information published on the Commissioner's website subject to the Open Government Licence, which gives the right to re-use the information subject to conditions
- issuing guidance on how to make re-use requests and complaints
- publishing our information asset register.

We received no re-use requests in 2017/18.



Find out more

Our Information Asset Register is published under Class 5 in our publication scheme: www.itspublicknowledge.info/guidetoinfo

Performance Analysis:

Operational performance continued

Financial performance

The Commissioner receives funding through the Scottish Parliamentary Corporate Body (SPCB) and the SPCB approves the Commissioner's annual budget. The Commissioner's financial performance is set out in full in the Accountability Report and Financial Statements which is published as part of the Annual Report and Accounts 2017/18. In summary, for the year ended 31 March 2018:

- Net expenditure on operating activities totalled £1,553,000 (2016/17 £1,554,000) – including non-cash transactions totalling £70,000 (2016/17 £54,000)
- Capital expenditure totalled £25,000 (2016/17 £45,000)
- Total net expenditure amounted to £1,578,000 (2016/17 £1,599,000)

Cash funding from the SPCB of £1,567,000 (2016/17 £1,565,000) was within the agreed cash budget for the financial year of £1,643,000 (2016/17 £1,566,000).

We met our target of achieving no more than a 5% variance in spend against budget.

Payment to suppliers

We are committed to the CBI Prompt Payment Code for the payment of invoices for goods and services. The Code is a voluntary initiative to improve performance and support businesses, the aim of which is to ensure suppliers are paid within 10 days of the receipt of the invoice received. We met our performance targets:

- We settled 99% of undisputed invoices within 10 days (target is 95%)
- We settled 100% of undisputed invoices within 30 days (target is 100%).

Fraud and bribery

We are committed to preventing fraud and corruption and have appropriate systems in place to maintain an anti-fraud culture. These systems include:

- assessing and reviewing the organisation's overall vulnerability to fraud and the specific areas which are most vulnerable
- developing and maintaining effective controls to prevent fraud
- ensuring that if fraud occurs a rigorous and prompt investigation will take place
- taking appropriate action in all cases, where justified
- recording and reporting all cases of fraud and bribery.

There have been no fraud or bribery cases in 2017/18.



Scottish Information
Commissioner

Scottish Information Commissioner

Accountability Report: page 46-55

Independent Auditor's Report: page 56-58

Financial Statements: page 59-67

Accountability Report 2017-18:

Corporate governance report

Commissioner's Report

Background

1. Our financial statements have been prepared in accordance with paragraph 5(1) of Schedule 2 to the Freedom of Information (Scotland) Act 2002 (the FOI Act).
2. Rosemary Agnew took up her appointment as Commissioner on 1 May 2012 and demitted from her appointment on 30 April 2017. From 1 May 2017 until 15 October 2017, Margaret Keyse was appointed as Acting Commissioner.
3. On 16 October 2017, Daren Fitzhenry took up his appointment as Commissioner, for a fixed term of six years, and is the designated Accountable Officer accountable to the Scottish Parliament for the finances of the Scottish Information Commissioner.
4. The Commissioner receives funding through the Scottish Parliamentary Corporate Body (SPCB) which has the power to approve the Commissioner's budget.

Senior Management Team

5. From 1 April – 30 April 2017, the Commissioner's Senior Management Team (SMT) comprised:
 - Rosemary Agnew, Scottish Information Commissioner
 - Helen Gardner-Swift, Head of Corporate Services (from 11 April 2017)
 - Sarah Hutchison, Head of Policy & Information
 - Margaret Keyse, Head of Enforcement
6. From 1 May 2017 - 15 October 2017, the Commissioner's SMT comprised:
 - Margaret Keyse, Acting Scottish Information Commissioner (1 May 2017 until 15 October 2017)
 - Helen Gardner-Swift, Head of Corporate Services
 - Sarah Hutchison, Head of Policy & Information
7. From 16 October 2017 – 31 March 2018, the Commissioner's SMT comprised:
 - Daren Fitzhenry, Scottish Information Commissioner (from 16 October 2017)
 - Helen Gardner-Swift, Head of Corporate Services
 - Sarah Hutchison, Head of Policy & Information
 - Margaret Keyse, Head of Enforcement

Personal data related incidents

8. We have an extensive information security management framework in place to ensure that personal information is safeguarded. Training on data protection and information security is included in the induction process for all new staff. All staff have also received periodic refresher training and are provided with data protection updates.
9. There was one personal data related incident during 2017-18 which was reported to the Information Commissioner (ICO). The ICO decided that no further action was necessary as the case did not meet the criteria set out in the ICO's Data Protection Regulatory Action Policy. The ICO also confirmed that appropriate measures had been taken to try to prevent any reoccurrence and to at least minimise the potential detriment to any affected individual(s) if a similar incident happened in the future.

Register of interests

10. Declarations of Interest for the SMT are published on the website with their biographies and updated each year. Declarations of Interest of other staff are obtained and held when required.

Provision of information to employees

11. We have adopted the principles of openness and participation in our organisation and place a high level of importance on both informing and consulting staff. We do so by routinely publishing minutes of meetings, providing open access to management papers, through oral and written briefings and by staff meetings and events. Information is only withheld where this can be shown to be justified or where a duty of confidence is owed to a third party.

Pension costs

12. The Commissioner and his staff are eligible to become members of the Principal Civil Service Pension Scheme arrangements (PCSPS) and for 2017-18 employer's contributions were payable to the PCSPS at one of four rates, in the range 20.0% to 22.1% of pensionable pay, based on defined salary bands. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme. Employees can also opt for a partnership pension with a private sector pension scheme into which the Commissioner makes an employer contribution.

Audit

13. The Commissioner's financial statements are audited in accordance with paragraph 5(2) of Schedule 2 to the FOI Act by auditors appointed by the Auditor General for Scotland. Deloitte have been appointed as the Commissioner's auditors for a six-year period from 2017-23 and have received no fees in relation to non-audit work.

Statement of Accountable Officer's responsibilities

14. Under paragraph 5(1) of Schedule 2 to the FOI Act, the Scottish Information Commissioner is required to keep accounts and prepare annual financial statements in respect of each financial year, in accordance with the directions of the Scottish Ministers.

Disclosure of information to auditors

15. As Accountable Officer, as far as I am aware, there is no relevant audit information of which the auditors are unaware. I have taken all reasonable steps that ought to have been taken to make myself aware of any relevant information and to establish that the auditors are aware of that information.

16. The financial statements are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Scottish Information Commissioner and of the net resource outturn, application of resources, changes in taxpayers' equity and cash flows for the financial year.

17. In preparing the financial statements, the Accountable Officer is required to comply with the requirements of the Financial Reporting Manual (FReM) and in particular to:

- i. observe the Accounts Direction including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis

- ii. make judgements and estimates on a reasonable basis

- iii. state whether applicable accounting standards, as set out in the FReM, have been followed, and disclose and explain any material departures in the financial statements

- iv. prepare the financial statements on a going concern basis.

18. The Scottish Parliamentary Corporate Body has appointed me as Accountable Officer of the Scottish Information Commissioner. The responsibilities of the Accountable Officer (including responsibility for the propriety and regularity of the public finances) for keeping proper records and for safeguarding assets are set in the Memorandum to the Accountable Officer of the Scottish Information Commissioner. As Accountable Officer, I confirm the Annual Report and Financial Statements are, as a whole, fair, balanced and understandable and, also, that I am personally responsible for these documents and the judgements required in reaching that conclusion.

Accountability Report 2017-18:

Governance Statement

Governance Framework: Scheme of Control

19. As Accountable Officer I am responsible for maintaining a sound system of governance. Governance systems must ensure appropriate levels of internal control and support the achievement of the organisation's aims and objectives, while safeguarding assets and the funds approved by the Scottish Parliamentary Corporate Body for which I am responsible.
20. I have in place a scheme of control, the key features of which are:
- i.** The Commissioner holds the role of Accountable Officer.
 - ii.** The Commissioner leads a Senior Management Team (SMT) whose membership is the Commissioner and the Heads of Department with overall responsibility for the operation and development of the organisation. Individual members of the SMT have delegated authority to make decisions as set out in the Commissioner's Scheme of Delegation. The SMT has formal meetings each quarter which focus on governance and the agendas, minutes and papers considered at these meetings are published on the Commissioner's website at: <http://www.itspublicknowledge.info/home/AboutSIC/Governance/ManagingOSIC.aspx>
 - iii.** Information from the agendas, minutes and papers is only withheld where the relevant exemption(s) in the FOI or the EIRs would apply if a request were, at this stage, to be made for the information.
 - iv.** The SMT also meets regularly on an informal basis to discuss routine operational issues. Any governance related decision taken at these meetings is ratified at the following quarterly governance meeting.
 - v.** Day-to-day operational management is the responsibility of individual Heads of Department, their deputies and teams. The managers are responsible for delivering the Operational Plan and provide reports on operational performance and issues to the SMT.
 - vi.** External scrutiny is provided by **(a)** external auditors appointed by the Auditor General for Scotland and the Scottish Information Commissioner's Advisory Audit Board (AAB) as set out in its purpose and objectives at: <http://www.itspublicknowledge.info/home/AboutSIC/Governance/AdvisoryAuditBoard.aspx> **(b)** an internal audit service provided by an independent firm.
21. The Scottish Information Commissioner has established governance arrangements. These are set out in the document "Governance Arrangements" which, together with the supporting document "Governance Reporting Arrangements", is published on the Commissioner's website at: <http://www.itspublicknowledge.info/home/AboutSIC/Governance/GovernanceFinance.aspx>.
22. The scheme of governance control is designed to manage rather than eliminate the risk of failure to achieve aims and objectives and, therefore, can provide only a reasonable and not an absolute assurance of effectiveness. Systems are in place and will continue to be developed to identify and evaluate risks and manage them efficiently, effectively, economically and proportionately.
- ### Review and assessment of effectiveness
23. As Accountable Officer I am responsible for reviewing the effectiveness of the scheme of control. My review is informed by:
- i.** Reports and comments made by the external auditors
 - ii.** The work of the SMT
 - iii.** The strategic direction of the organisation
 - iv.** Reports from internal audits and reviews on the adequacy and effectiveness of the scheme of internal control
 - v.** The advice of the AAB in relation to the Commissioner's risk and internal control measures.
24. In 2015-16 an internal audit of the corporate governance arrangements was carried out by an independent firm of auditors. Their report found that the control environment over corporate governance and risk management arrangements is robust.

25. Compliance with generally accepted best practice principles and relevant guidance on corporate governance has been assessed using an internal control checklist. The checklist is based on that provided within the Scottish Public Finance Manual and a proportionate approach has been adopted, reflecting the relatively small size and simple structure of the Commissioner's office whilst recognising the wide impact of my duties.
26. Completion of the internal control checklist and the report to the SMT on the compliance with governance reporting arrangements confirmed that effective controls and systems are in place.

Management of risk

27. There is a Risk Management Policy, which is reviewed annually. The SMT maintains a Strategic Risk Register and a comprehensive Operational Risk Register which are actively managed and updated every quarter and month, respectively, as a minimum.
28. Together, these provide an ongoing system which identifies key risks and evaluates their potential impact on the achievement of strategic and operational objectives and the control measures in place or needed either to eliminate or mitigate the impact and/or reduce the likelihood of occurrence. The evaluation of risk involves assessing its nature and extent so that effective and affordable control measures can be implemented.

Review of effectiveness of internal control and risk management

29. The systems of internal control are designed to evaluate the nature and extent of any risks and to manage them efficiently, effectively and economically.
30. The systems are based on a framework of regular management information, administrative procedures and a system of delegation and include an annual budget approved by the SMT, reviews and updates of the Scheme of Delegation, quarterly financial reports and quarterly reviews of the risk registers.
31. The systems are designed to manage rather than eliminate the risk of failure to achieve the

Commissioner's policies, aims and objectives and can only provide a reasonable and not absolute measure of effectiveness.

32. The Risk Management Policy has been reviewed and considered by the AAB which confirmed that it provided the Commissioner with appropriate assurance.
33. The Risk Management Policy and Registers have been effective in enabling the SMT to manage the organisation's risk profile and include target risks which inform priorities when formulating the annual Operational Plan.
34. All matters requiring a formal decision by the SMT include an assessment of the impact on risk. This, combined with the SMT's active management of the Risk Registers and the implementation of the governance arrangements, has been effective in embedding risk management in decision making and planning practices.
35. The systems have been in place for the year 2017-18 and up to the date of approval of the annual report and accounts.
36. As Accountable Officer, I have reviewed the systems of internal control and risk management arrangements. My review has been informed by the assurance framework established with the Scottish Public Finance Manual, internal audits as set out in the Internal Audit Plan and comments by the external auditors in the management letter and other reports.

Significant issues

37. During the financial year to 31 March 2018 and to the date of this statement, no significant control weaknesses or issues have arisen, and no significant failures have arisen in the expected standards for good governance, risk management and control.
38. As Accountable Officer, I authorised these financial statements for issue on 24 September 2018.

Daren Fitzhenry
Accountable Officer

Date:

Accountability Report 2017-18:

Remuneration and staff report

Remuneration Report

Remuneration policy

39. The Commissioner's remuneration is determined by the SPCB. The Commissioner's salary is reviewed on an annual basis and, where appropriate, uprated in line with the Review Body's recommendations for the senior civil service pay award.
40. The SMT remuneration is determined by the Commissioner and is subject to the approval of the SPCB.
41. In determining levels of remuneration, account is taken of the need for pay to be set at a level which will ensure the recruitment, retention and motivation of staff, together with the need to ensure affordability and value for money.
42. In practice, the terms and conditions of employment (including remuneration) of the SMT are modelled on those of the SPCB.

Service contracts

43. The SMT holds appointments which are open-ended. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.
44. The members of the SMT are not classified as civil servants but pension benefits are provided through the Principal Civil Service Pension Scheme (PCSPS) arrangements and a partnership pension scheme.

Remuneration (including salary) and pension entitlements

45. The following sections provide details of the remuneration and pension interests of the Commissioner and the SMT. The information relating to salary and pension entitlements, fair pay disclosures and the analysis of staff costs are subject to audit.

| Name and title | Salary: full year equivalent | |
|---|------------------------------|-------------|
| | 2017-18 (£) | 2016-17 (£) |
| Rosemary Agnew Scottish Information Commissioner (01/04/17 – 30/04/17) | 80,766 | 80,766 |
| Daren Fitzhenry Scottish Information Commissioner (from 16/10/17) | 74,095 | 0 |
| Margaret Keyse Acting Scottish Information Commissioner (01/05/17 -15/10/17) | 73,000 | 0 |

| Name and title | Salary: full year equivalent | | Pension benefits accrued during the year ¹ | | Total | |
|--|------------------------------|------------------|---|------------------|------------------|------------------|
| | 2017-18 £'000 | 2016-17 £'000 | 2017-18 £'000 | 2016-17 £'000 | 2017-18 £'000 | 2016-17 £'000 |
| Rosemary Agnew Scottish Information Commissioner (01/04/17 – 30/04/17) | 80-85 | 80-85 | 3 | 32 | 80-85 | 110-115 |
| Daren Fitzhenry Scottish Information Commissioner (from 16/10/17) | 70-75 | 0 | 13 | 0 | 85-90 | 0 |
| Margaret Keyse Acting Scottish Information Commissioner (01/05/17 – 15/10/17) | 70-75 | 0 | 14 | 0 | 85-90 | 0 |
| Margaret Keyse Head of Enforcement (01/04/17 – 30/04/17 & from 16/10/17) | 60-65 | 60-65 | 17 | 20 | 80-85 | 80-85 |
| Sarah Hutchison Head of Policy & Information | 60-65 | 60-65 | 8 | 13 | 70-75 | 83-88 |
| Helen Gardner-Swift Head of Corporate Services | 45-50 | 0 | 18 | 0 | 60-65 | 0 |

Median Salary Ratio

46. Reporting bodies are required to disclose the relationship between the remuneration of the highest paid senior member of staff in their organisation and the median remuneration of the organisation's workforce:

| | 2017-18 | 2016-17 |
|---|---------|---------|
| Highest paid staff member (the previous Commissioner). Salary band £'000: | 80-85 | 80-85 |
| Median total remuneration (£) | 40,560 | 39,764 |
| Ratio | 2.0 | 2.0 |

47. In 2017-18 no employee received remuneration in excess of the Commissioner. Remuneration ranged from £16,949 (gross p.a.) to banded remuneration of £60-65K (2016-17: £16,549 (gross p.a.) to banded remuneration of £60-65K).

48. No benefits in kind were paid in either 2017-18 or 2016-17.

49. No bonus payments were made in either 2017-18 or 2016-17.

¹ The value of pension benefits accrued during the year is calculated as the real increase in pension multiplied by 20 plus the real increase in any lump sum less the contributions made by the individual. The real increases exclude increases due to inflation or any increases or decreases due to a transfer of pension rights.

Accountability Report 2017-18:

Remuneration and staff report

continued

Pension benefits

50.

| | Real increase in pension at pension age | Total accrued pension at pension age at 31 Mar 2018 | CETV at 31 March 2018 | CETV at 31 March 2017 | Real increase in CETV as funded by employer |
|---|---|--|-----------------------------|-----------------------------|--|
| | £'000 | £'000 | £'000 | £'000 | £'000 |
| Rosemary Agnew Scottish Information Commissioner (01/04/17 – 30/04/17) | 0-2.5 | 5-10 | 121 | 119 | 1 |
| Daren Fitzhenry Scottish Information Commissioner (from 16/10/17) | 0-2.5 | 0-5 | 8 | 0 | 6 |
| Margaret Keyse Head of Enforcement | 0-2.5 | 25-30 | 411 | 370 | 15 |
| Sarah Hutchison Head of Policy & Information | 0-2.5 | 25-30 | 510 | 471 | 7 |
| Helen Gardner-Swift Head of Corporate Services | 0-2.5 | 0-5 | 13 | 0 | 10 |

51. All the above are members of the Principal Civil Service Pension Scheme (PCSPS). As such, there is no automatic lump sum on retirement.

The Cash Equivalent Transfer Value (CETV)

52. A CETV is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any spouse's or civil partner's pension contingently payable depending on the scheme. A CETV is the amount payable by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which the disclosure applies.

53. The figures include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the PCSPS arrangements. They also include any additional pension benefit accrued to the

scheme member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are worked out within the guidelines and framework prescribed by the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

The real increase in CETV

54. CETV movement may comprise a number of components such as the age of the individual, inflation, contributions by the employer and the employee, and performance of the fund where relevant. The real increase in CETV reflects the increase effectively funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the year.

55. The information in the tables on pages 50,51,52 and 53 is covered by the audit opinion.

Staff Report

Health, safety and wellbeing

56. We have a good workplace culture and support the wellbeing of staff. There is a flexible working policy in place. For the year ended 31 March 2018, corporate processes regarding attendance management, conduct and performance management were followed.
57. We have relevant employment policies and an Employee Handbook in place. The review of our Employee Handbook is continuing and will be carried forward into 2018-19.
58. Our Health and Safety Policy and Handbook was reviewed in 2017-18 and approved by our external advisers. Health and safety awareness and training was included in the induction plan for all new staff.
59. There were no reportable health and safety incidents during 2017-18.
60. There was an increase in staff sickness absence rates as compared to those reported in 2016-17. The total number of days lost to sickness absence in 2017-18 (per full time equivalent member of staff) was 7.32 (2016-17: 5.95).
61. An employee assistance programme continues to be provided signposting staff to wellbeing guidance and access to confidential advice.

Staff numbers and costs

62. Our Human Resources Strategy was reviewed in 2017-18. This strategy sets out what we aim to achieve with, and for, staff at all levels and in doing so provides a framework for the focus and setting of operational objectives and activity to develop people and talent.

63. Staff costs

| | Commissioner | Senior Management Team | Staff | Total | Total |
|---------------|------------------|------------------------|------------------|------------------|------------------|
| | 2017-18 £'000 | 2017-18 £'000 | 2017-18 £'000 | 2017-18 £'000 | 2016-17 £'000 |
| Salary/Wages | 76 | 158 | 648 | 881 | 852 |
| ERNIC | 10 | 18 | 65 | 93 | 99 |
| Pension costs | 16 | 32 | 131 | 180 | 193 |
| Total | 102 | 208 | 844 | 1,154 | 1,144 |

Accountability Report 2017-18:

Remuneration and staff report

continued

Staff Report (Cont.)

64. Analysis by gender of the organisation as at 31 March 2018.

| Category | Headcount | | |
|---------------------------------------|-----------|----------|-----------|
| | Female | Male | Total |
| Scottish Information Commissioner | 0 | 1 | 1 |
| Senior Managers (Heads of Department) | 3 | 0 | 3 |
| Other Staff | 12 | 5 | 17 |
| Total | 15 | 6 | 21 |

65. The average number of full time equivalent (FTE) persons employed by the Commissioner during the year was as follows:

| | 2017-18 | | | 2016-17 | | |
|-----------------|-----------|-----------|-----------|-----------|-----------|-----------|
| | Permanent | Temporary | Total | Permanent | Temporary | Total |
| | FTE No. | FTE No. | FTE No. | FTE No. | FTE No. | FTE No. |
| Commissioner | 1 | 0 | 1 | 1 | 0 | 1 |
| Senior Managers | 2.5 | 0 | 2.5 | 3 | 0 | 3 |
| Staff | 16.5 | 1 | 17.5 | 16 | 1 | 17 |
| Total | 20 | 1 | 21 | 20 | 1 | 21 |

Staff turnover

66.

| | |
|------------|----------|
| Leavers | 3 |
| New starts | 3 |

Temporary staff

67. In the year to 31 March 2018, there was one member of staff on a temporary contract of employment.

Staff relations

68. We recognise the importance of good staff relations and effective communication with staff. There are quarterly all staff meetings, regular team meetings and staff can access minutes of meetings of the SMT (information is only withheld where this can be shown to be justified or where a duty of confidence is owed to a third party).

Diversity and equality

69. We support the aims and principles of equality legislation in carrying out our operational functions and employment practices. This means we are committed to our organisation's policies and practices and to ensure that no individual is discriminated against, either directly or indirectly, unlawfully or unjustifiably because of their personal status in relation to:

- i.** age
- ii.** disability
- iii.** gender reassignment
- iv.** marital or civil partnership status
- v.** pregnancy or maternity
- vi.** race (which includes colour, nationality and ethnic or national origins)
- vii.** religion or belief
- viii.** sex
- ix.** sexual orientation.

70. In 2017-18 we provided Age Awareness training for all staff and, where appropriate, we have implemented reasonable adjustments to enable staff to fulfil their potential.

Independent Auditor's Report

Independent auditor's report to the Scottish Information Commissioner, the Auditor General for Scotland and the Scottish Parliament

Report on the audit of the financial statements

Opinion on financial statements

We have audited the financial statements in the annual report and accounts of Scottish Information Commissioner for the year ended 31 March 2018 under the Freedom of Information (Scotland) Act 2002. The financial statements comprise the Statement of Comprehensive Net Expenditure, the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and International Financial Reporting Standards (IFRSs) as adopted by the European Union, and as interpreted and adapted by the 2017/18 Government Financial Reporting Manual (the 2017/18 FReM).

In our opinion the accompanying financial statements:

- give a true and fair view in accordance with the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers of the state of the body's affairs as at 31 March 2018 and of its net expenditure for the year then ended;
- have been properly prepared in accordance with IFRSs as adopted by the European Union, as interpreted and adapted by the 2017/18 FReM; and
- have been prepared in accordance with the requirements of the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers.

Basis of opinion

We conducted our audit in accordance with applicable law and International Standards on Auditing (UK) (ISAs (UK)). Our responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of our report. We are independent of the body in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern basis of accounting

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- the use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the body has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about its ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Responsibilities of the Accountable Officer for the financial statements

As explained more fully in the Statement of the Accountable Officer Responsibilities, the Accountable Officer is responsible for the preparation of financial statements that give a true and fair view in accordance with the financial reporting framework, and for such internal control as the Accountable Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Accountable Officer is responsible for assessing the body's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless deemed inappropriate.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to achieve reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of the auditor's responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website www.frc.org.uk/auditorsresponsibilities. This description forms part of our auditor's report.

Other information in the annual report and accounts

The Accountable Officer is responsible for the other information in the annual report and accounts. The other

information comprises the information other than the financial statements, the audited part of the Remuneration and Staff Report, and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon except on matters prescribed by the Auditor General for Scotland to the extent explicitly stated later in this report.

In connection with our audit of the financial statements, our responsibility is to read all the other information in the annual report and accounts and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Report on regularity of expenditure and income

Opinion on regularity

In our opinion in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

Responsibilities for regularity

The Accountable Officer is responsible for ensuring the regularity of expenditure and income. We are responsible for expressing an opinion on the regularity of expenditure and income in accordance with the Public Finance and Accountability (Scotland) Act 2000.

Independent Auditor's Report

continued

Report on other requirements

Opinions on matters prescribed by the Auditor General for Scotland

In our opinion, the audited part of the Remuneration and Staff Report has been properly prepared in accordance with the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers.

In our opinion, based on the work undertaken in the course of the audit

- the information given in the Performance Report for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers; and
- the information given in the Governance Statement for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers.

Matters on which we are required to report by exception

We are required by the Auditor General for Scotland to report to you if, in our opinion:

- adequate accounting records have not been kept; or
- the financial statements and the audited part of the Remuneration and Staff Report are not in agreement with the accounting records; or
- we have not received all the information and explanations we require for our audit.

We have nothing to report in respect of these matters.

Use of our Report

This report is made solely to the parties to whom it is addressed in accordance with the Public Finance and Accountability (Scotland) Act 2000 and for no other purpose. In accordance with paragraph 120 of the Code of Audit Practice approved by the Auditor General for Scotland, we do not undertake to have responsibilities to members or officers, in their individual capacities, or to third parties.

Pat Kenny, CPFA
(for and on behalf of Deloitte LLP)
110 Queen Street
Glasgow
G1 3BX

Date:

Financial Statements 2017-18:

Financial Statements and notes

Statement of Comprehensive Net Expenditure for the year ended 31 March 2018

| | | 2017-18 | 2016-17 |
|---------------------------------|------|--------------|--------------|
| | Note | £'000 | £'000 |
| Income | | | |
| Other income | 4 | (34) | (1) |
| Expenditure | | | |
| Staff costs | 5 | 1,154 | 1,144 |
| Other administration costs | 7 | 363 | 357 |
| Depreciation and amortisation | 8, 9 | 70 | 54 |
| Net administration costs | | 1,587 | 1,555 |
| Net operating costs | | 1,553 | 1,554 |

All amounts relate to continuing activities.

There have been no gains or losses other than those recognised in the Statement of Comprehensive Net Expenditure above.

The accompanying notes on pages 61 to 67 form an integral part of these accounts.

Statement of Financial Position as at 31 March 2018

| | | 2017-18 | 2016-17 |
|--------------------------------|------|-------------|-------------|
| | Note | £'000 | £'000 |
| Non-current assets | | | |
| Property, plant and equipment | 8 | 105 | 132 |
| Intangible assets | 9 | 38 | 56 |
| Non-current assets | | 143 | 188 |
| Current assets | | | |
| Trade and other receivables | 10 | 56 | 19 |
| Cash and cash equivalents | 11 | 114 | 113 |
| Current assets | | 170 | 132 |
| Total assets | | 313 | 320 |
| Current liabilities | | | |
| Trade and other payables | 12 | (59) | (80) |
| Current liabilities | | (59) | (80) |
| Assets less liabilities | | 254 | 240 |
| Taxpayers equity | | | |
| General Fund | 13 | 231 | 217 |
| Revaluation Reserve | 13 | 23 | 23 |
| Taxpayers equity | | 254 | 240 |

The accompanying notes on pages 61 to 67 form an integral part of these accounts.

Financial Statements 2017-18:

Financial Statements and notes continued

Statement of cash flows for the period ended 31 March 2018

| | | 2017-18 | 2016-17 |
|---|------------|----------------|----------------|
| | Note | £'000 | £'000 |
| Cash flows from operating activities | | | |
| Net operating costs | | (1,553) | (1,554) |
| Adjustments for non-cash items | 8,9 | | |
| Depreciation | | 70 | 54 |
| Movements in working capital | | | |
| (increase) / decrease in trade and other receivables | 10 | (37) | 4 |
| increase / (decrease) in trade and other payables | 12 | (21) | (43) |
| Net cash outflow from operating activities | | (1,541) | (1,539) |
| Cash flows from investing activities | | | |
| Purchase of property, plant and equipment | 8 | (10) | (10) |
| Purchase of intangible assets | 9 | (15) | (35) |
| Net cash flow from investing activities | | (25) | (45) |
| Total cash outflows from operating and investing activities | | (1,566) | (1,584) |
| Cash inflows from SPCB financing activities | 3 | 1,567 | 1,565 |
| Net increase/(decrease) in cash and cash equivalents | | 1 | 19 |
| Cash and cash equivalents at beginning of period | 11 | 113 | 132 |
| Cash and cash equivalents at end of period | 11 | 114 | 113 |
| Net (decrease)/increase in cash and cash equivalents | | 1 | (19) |

The accompanying notes on pages 61 to 67 form an integral part of these accounts.

Statement of changes in taxpayers equity for the year ended 31 March 2018

| | General Fund | Revaluation reserve | Total reserves | 2016/2017 |
|---------------------------------|--------------|---------------------|----------------|------------|
| | £'000 | £'000 | £'000 | £'000 |
| Balance at 1 April 2017 | 217 | 23 | 240 | 229 |
| Net operating cost for the year | (1,553) | 0 | (1,553) | (1,554) |
| Net funding | 1,567 | 0 | 1,567 | 1,565 |
| Balance at 31 March 2018 | 231 | 23 | 254 | 240 |

Notes to the Financial Statements

1. Accounting policies

These financial statements have been prepared in accordance with the accounts direction issued by Scottish Ministers under Section 19(4) of the Public Finance and Accountability (Scotland) Act 2000 and also in compliance with the principles and disclosure requirements of the Government Financial Reporting Manual (FReM). The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy judged to be the most appropriate to the circumstances of the Scottish Information Commissioner in order to provide a true and fair view has been selected. The particular accounting policies adopted by the Commissioner are described below. They have been applied consistently in dealing with items considered material in relation to the financial statements.

1.1. Accounting convention

These financial statements have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment, financial instruments and inventories where material, at their value to the organisation by reference to their current costs.

1.2. Critical judgements in applying accounting policies

In applying the accounting policies set out in these Notes, the Commissioner has had to make judgements about financial transactions or those involving uncertainty about future events. The critical judgement made in the Financial Statements is that the organisation will continue as a going concern and will be appropriately funded by the SPCB.

1.3. Critical accounting estimates

The Financial Statements contain estimated figures that are based on assumptions about the future or that are otherwise uncertain. These estimates relate to the value of tangible and intangible assets. Estimates are made taking account of historical experience, current trends and other relevant factors but cannot be determined with certainty. Actual results could be different from the assumptions and estimates, but are unlikely to be material.

1.4. Property, Plant and Equipment (PPE)

1.4.1. Recognition

All PPE assets will be accounted for as non-current assets.

1.4.2. Capitalisation

The minimum levels for capitalisation of a PPE asset are

| | |
|----------------------------------|--|
| Leasehold improvements | £10,000 inclusive of irrecoverable VAT |
| Fixtures, fittings and equipment | £500 inclusive of irrecoverable VAT |

1.4.3. Depreciation

Depreciation is provided at rates calculated to write off the valuation of buildings and other PPE assets by equal instalments over their estimated useful lives which are normally in the following ranges

| | |
|-------------------------|--|
| Leasehold improvements | Over the remaining period of the lease |
| Furniture and equipment | 5 years |
| Fixtures, fittings | 5 years |
| IT equipment | 3 years |

1.4.4. Valuation

Assets other than artwork are held at depreciated historic value. Artwork is held at open market value.

1.4.5. Intangible non-current assets

Software and licences are capitalised as intangible non-current assets and amortised on a straight-line basis over the expected life of the asset (3 years).

Financial Statements 2017-18:

Financial Statements and notes

continued

Notes to the Financial Statements (Cont.)

1.5. Financial instruments

Financial instruments are classified and accounted for according to the substance of the contractual agreement as either financial assets or financial liabilities. The Commissioner has classified its financial instruments as follows

1.5.1. Financial assets

Cash and cash equivalents, trade receivables, accrued income and amounts receivable are reported in the "Current Assets" category.

1.5.2. Financial liabilities

Trade payables, accruals and creditors are classified as "Current Liabilities".

1.6. Funding receivable

Funding received from the SPCB is credited directly to a prescribed income account in the year to which it relates.

1.7. Value Added Tax (VAT)

The Commissioner is not registered for VAT. All amounts are recorded inclusive of VAT.

1.8. Leases

The Commissioner holds no finance leases. Costs in respect of operating leases are charged to the Statement of Comprehensive Net Expenditure as they fall due.

1.9. Pension costs

The Commissioner is paid through the SPCB's payroll and is a member of the Principal Civil Service Pension Scheme (PCSPS). Pension benefits for the Commissioner's staff are also provided through the PCSPS and a partnership pension with a private sector pension scheme.

The PCSPS is an unfunded multi-employer defined benefit scheme with benefits underwritten by the Government. As a result the Commissioner is unable to identify its share of the underlying assets and liabilities and it is, therefore, accounted for as a defined contribution scheme. No liability is shown in the Statement of Financial Position.

A full actuarial valuation was carried out as at 31 March 2012. The PCSPS is financed by payments from the employer and those current employees who are members of the PCSPS and who pay contributions at different rates depending on their salaries and the section of the pension scheme of which they are a member. The rate of employer

contributions is typically set following an actuarial valuation and the valuation carried out as at 31 March 2012 recommended an employer contribution rate of 20.9% of pensionable pay.

Government Actuary's Department has been appointed as the PCSPS actuary. Further details of the PCSPS Actuarial Valuation can be found here

www.civilservicepensionscheme.org.uk/media/94676/pcsp-2012-valuation-final-report-final-22072014.pdf

Further details about the Civil Service pension arrangements can be found here www.civilservice.gov.uk/pensions

1.10 International Financial Reporting Standards (IFRS) issued but not yet effective

At the date of authorisation of these Financial Statements, the following Standards and Interpretations which have not been applied in these Financial Statements were in issue but not yet effective (and in some cases had not yet been adopted by the EU)

- IFRS 9, Financial Instruments (2014) (effective 1 January 2018)
- IFRS 16, Leases (effective 1 January 2019)

The Commissioner does not expect that the adoption of the Standards and Interpretations detailed above will have a material impact on the Financial Statements of the Commissioner in future periods.

IFRS 16 Leases was published by the International Accounting Standards Board in January 2016 and is applicable for accounting periods beginning on or after 1 January 2019. This means that for the Commissioner, the standard will be effective for the year ending 31 March 2020. IFRS 16 will require leases to be recognised on the Statement of Financial Position as an asset which reflects the right to use the underlying asset and a liability which represents the obligation to make lease payments. At the date of authorisation of these Financial Statements, IFRS 16 has not been adopted for use in the public sector and has not been included in the FReM. As such it is not yet possible to quantify the impact of IFRS 16 accurately.

2. Prior year adjustments

No prior year adjustments have been made.

3. Performance against budget

The Commissioner is funded through the SPCB. For the financial year 2017-18 the Commissioner was allocated a funding budget of £1,643,000.

| | 2017-18 Budget | 2017-18 Expenditure | Variance | 2016-17 Expenditure |
|---|-------------------|------------------------|-------------|------------------------|
| | £'000 | £'000 | £'000 | £'000 |
| Net operating costs | 1,639 | 1,553 | 86 | 1,554 |
| Capital expenditure | 4 | 25 | (21) | 45 |
| Total expenditure | 1,643 | 1,578 | 65 | 1,599 |
| Accruals adjustments | | | | |
| Non-cash items | (70) | (70) | 0 | (54) |
| Working capital (including cash) | - | 59 | (59) | 20 |
| Cash funding from the SPCB | 1,573 | 1,567 | 6 | 1,565 |

4. Income from all sources

| | 2017-18 | 2016-17 |
|-------------------------|-----------|----------|
| | £'000 | £'000 |
| Recovery of court costs | 34 | 0 |
| Miscellaneous income | 0 | 1 |
| Bank interest received | 0 | 0 |
| Total | 34 | 1 |

Any income that is received is credited to the Statement of Comprehensive Net Expenditure. It is unusual for us to receive income but, where possible, we seek to recover court costs and any court costs received are treated as income.

Financial Statements 2017-18:

Financial Statements and notes

continued

Notes to the Financial Statements (Cont.)

5. Staff costs

| | Total | Commissioner | Senior Management Team | Staff | Total |
|------------------|--------------|--------------|------------------------|------------|--------------|
| | 2017-18 | 2017-18 | 2017-18 | 2017-18 | 2016-17 |
| | £'000 | £'000 | £'000 | £'000 | £'000 |
| Salaries / Wages | 881 | 76 | 158 | 648 | 852 |
| ERNIC | 93 | 10 | 18 | 65 | 99 |
| Pension costs | 180 | 16 | 32 | 131 | 193 |
| Total | 1,154 | 102 | 208 | 844 | 1,144 |

Salaries **include** basic salaries and are adjusted for accrued holiday pay. They do not include employee National Insurance or pension contributions.

6. Pension costs

For 2017-18 employer's contributions of £175,917 were payable to the PCSPS at one of four rates in the range 20.0% to 22.1% of pensionable pay, based on defined salary bands. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme. There were no outstanding scheme contributions as at 31 March 2018 (2016-17: £NIL). On death, pensions are payable to the surviving spouse at the rate of half the member's pension. On death in service, the scheme pays a lump sum benefit of at least twice pensionable pay, depending on the scheme joined within PCSPS, and also provides a service enhancement on computing the spouse's pension. The enhancement depends on the length of service and cannot exceed ten years. Medical retirement is possible in the event of serious ill health. In this case, pensions are brought into payment immediately without actuarial reduction and with service enhanced as for widow(er) pensions. One employee has opted for a partnership pension with a private sector pension scheme into which the Commissioner made an employer contribution of £4,026 in 2017-18. For partnership pensions, employer contributions are age-related and range from 8% to 14.75% of pensionable pay.

7. Other administration costs

| | 2017-18 | 2016-17 |
|---|------------|------------|
| | £'000 | £'000 |
| Property costs | 77 | 94 |
| Research and promotion | 9 | 40 |
| Administration costs | 190 | 157 |
| Legal costs for Court of Session hearings | 56 | 42 |
| Travel and expenses | 15 | 11 |
| Audit fees | 16 | 13 |
| Total | 363 | 357 |

Included within Administration costs is £1,617 (2016-17: £1,617) equipment rental costs in association with operating leases (see also note 14).

8. Property, Plant and Equipment (PPE)

| | Lease improvements | Artwork | Fixtures, fittings and equipment | Information Technology | Total |
|---|--------------------|-----------|----------------------------------|------------------------|------------|
| | £'000 | £'000 | £'000 | £'000 | £'000 |
| Cost or valuation | | | | | |
| At 1 April 2017 | 214 | 38 | 127 | 156 | 535 |
| Additions | 0 | 0 | 5 | 5 | 10 |
| Revaluations | 0 | 0 | 0 | 0 | 0 |
| Disposals | 0 | 0 | 0 | (14) | (14) |
| At 31 March 2018 | 214 | 38 | 132 | 147 | 531 |
| Depreciation | | | | | |
| At 1 April 2017 | 165 | 0 | 109 | 129 | 403 |
| Charge for the year | 13 | 0 | 5 | 19 | 37 |
| Disposals | 0 | 0 | 0 | (14) | (14) |
| At 31 March 2018 | 178 | 0 | 114 | 134 | 426 |
| Net book value as at 31 March 2018 | 36 | 38 | 18 | 13 | 105 |
| Net book value as at 31 March 2017 | 49 | 38 | 18 | 27 | 132 |

The Commissioner's artwork was valued on 7 May 2013 by scotlandart.com and on 17 October 2017 by David Mach Limited, independent art dealers. The Commissioner considers the valuation to be appropriate as at 31 March 2018. The basis of valuation used was open market value and the unrealised gain was transferred to the revaluation reserve. No other assets have been revalued.

Financial Statements 2017-18:

Financial Statements and notes

continued

Notes to the Financial Statements (Cont.)

9. Intangible assets

Intangible assets comprise software and licences.

| | 2017-18 |
|--|------------|
| | £'000 |
| Cost | |
| At 1 April 2017 | 364 |
| Additions | 15 |
| Disposals | 0 |
| At 31 March 2018 | 379 |
| Amortisation | |
| At 1 April 2017 | 308 |
| Charge for the year | 33 |
| Disposals | 0 |
| At 31 March 2018 | 341 |
| Net book value at 31 March 2018 | 38 |
| Net book value at 31 March 2017 | 56 |

10. Trade and other receivables

| | 2017-18 | 2016-17 |
|--|-----------|-----------|
| | £'000 | £'000 |
| Amounts falling due within one year | | |
| Prepayments and accrued income | 56 | 19 |
| Receivable within one year | 56 | 19 |

11. Cash and cash equivalents

| | 2017-18 | 2016-17 |
|---|------------|------------|
| | £'000 | £'000 |
| Balance at 1 April 2017 | 113 | 132 |
| Net change in cash and cash equivalent balances | 1 | (19) |
| Balance at 31 March 2018 | 114 | 113 |
| Cash held at commercial banks | 114 | 113 |

Cash and cash equivalents include cash in hand and deposits held on call at two bank accounts. The funding received from the SPCB is paid into one of the accounts and moneys are transferred to the second account for the payment of invoices. This arrangement will be reviewed in 2018-19.

12. Trade and other payables

| | 2017-18 | 2016-17 |
|--|-----------|-----------|
| | £'000 | £'000 |
| Amounts falling due within one year | | |
| Trade payables | 2 | 34 |
| Accruals and deferred income | 57 | 46 |
| Total | 59 | 80 |

13. Capital and reserves

13.1. General fund

| | 2017-18 | 2016-17 |
|------------------------------|------------|------------|
| | £'000 | £'000 |
| At 1 April 2017 | 217 | 206 |
| Net expenditure for the year | (1,553) | (1,554) |
| Funding from the SPCB | 1,567 | 1,565 |
| At 31 March 2018 | 231 | 217 |

13.2. Revaluation reserve

| | 2017-18 | 2016-17 |
|----------------------------|-----------|-----------|
| | £'000 | £'000 |
| Revaluation reserve | 23 | 23 |

14. Commitments under leases

Obligations under operating leases.

| | 2017-18 | 2016-17 |
|--|---------|---------|
| | £'000 | £'000 |
| Buildings | | |
| Not later than one year | 50 | 50 |
| Later than one year and not later than 5 years | 96 | 146 |
| Later than 5 years | 0 | 0 |
| Other | | |
| Not later than one year | 2 | 2 |
| Later than one year and not later than 5 years | 1 | 3 |
| Later than five years | 0 | 0 |

15. Capital commitments

There were no contracted capital commitments at 31 March 2018 (2016-17: £NIL).

16. Contingent liabilities disclosed under IAS 37

There were no contingent liabilities at 31 March 2018.

17. Related party transactions

The Commissioner receives funding from the SPCB following an annual Parliamentary budget approval process. The SPCB is regarded as a related party. Neither the Commissioner, nor any of his staff, has undertaken any material transactions with either the SPCB or the Commissioner or the office of the Commissioner during the year.

18. Post reporting year events

No event has occurred since the date of the balance sheet which materially affects the financial statements.

19. Financial instruments

Financial assets are carried in the balance sheet at amortised cost. Their fair value can be assessed by calculating the present value of the cash flows that will take place over the remaining period of the instrument, using the assumption that the fair value of trade and other receivables is taken to be the invoiced or billed amount.

Credit risk - the Commissioner receives funding on a monthly basis and restricts cash holdings to a minimum.

Liquidity risk - the Commissioner does not have any external borrowings.

Market risk - changes in market interest rates influence the interest on borrowings and on interest receivable on surplus funds invested. The Commissioner does not rely on interest receivable as its key source of income.

Financial Statements 2017-18:

Financial Statements and notes continued

Appendix 1 - Accounts Direction

1. The Scottish Ministers, in pursuance of paragraph 5 of Schedule 2 of the Freedom of Information (Scotland) Act 2002, hereby give the following direction.
2. The statement of accounts for the financial year ended 31 March 2006, and subsequent years, shall comply with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (FReM) which is in force for the year for which the statement of accounts are prepared.
3. The accounts shall be prepared so as to give a true and fair view of the income and expenditure and cash flows for the financial year and of the state of affairs at the end of the financial year.
4. The direction shall be reproduced as an appendix to the statement of accounts. The direction given on 20 April 2004 is hereby revoked.

Signed by the authority of the Scottish Ministers
Dated 1 September 2006

