



Scottish Information Commissioner update

Scottish Public Information Forum: 5 March 2018

Applications and Decisions

1. Our final caseload for 2017/18 is expected to be around 500 appeals. Fewer than 1% of information requests received by Scottish public authorities are appealed to the Commissioner. You can view all authorities' request data at www.itspublicknowledge.info/stats.
2. The Commissioner's Decision Notices are published at www.itspublicknowledge.info/Decisions. Decisions cover a wide range of subjects, some topical, others of personal interest. Recent decisions cover the handling of requests for information about the health of farmed salmon, social care service provision, purchase of armed equipment and ammunition (by Police Scotland) and safe crossing points for cyclists on the Edinburgh tramline.
3. Sign up to receive a weekly summary of all Decision Notices, with learning points, at www.itspublicknowledge.info/roundup

Interventions

4. Under his Enforcement Policy, the Commissioner makes "interventions" where he is concerned about authority FOI practice. In most cases, interventions concern simply asking the authority to fix a problem. Where concerns are more serious or systemic, there is a practice review (by the authority or the Commissioner). An action plan is then agreed to remedy the issues identified.
5. We have two such interventions with Scottish Ministers:
 - (i) Failure to respond: The Ministers adopted internal targets for responding on time to requests and reviews and have been providing monthly performance information to the Commissioner since April 2017. The focus is now on sustaining the considerable improvement made.
 - (ii) FOI performance: The intervention is examining issues of FOI culture and practice, and allegations of the use of deliberate delaying tactics and requests being blocked or refused for tenuous reasons. Read more at www.itspublicknowledge.info/home/AboutSIC/WhatWeDo/Intervention201702016ScottishGovernment.aspx.

Legislation

Data Protection Bill and FOI

6. We continue to monitor the progress of the Data Protection Bill through the UK Parliament, particularly the consequential amendments to the personal data exemption in section 38 of FOISA and to the personal data exception in regulation 11 of the Environmental Information (Scotland) Regulations 2004.
7. We'll update and promote the Commissioner's guidance on section 38 and regulation 11 when the Bill has been passed (it receives its second reading in the House of Commons today).

Extension of FOISA to Registered Social Landlords

8. We're responding to the Scottish Government's consultation on the draft Section 5 Order, with a focus on ensuring that the wording is sufficiently clear to avoid uncertainty about which bodies will be covered.
9. The Government has indicated that the order will come into effect on 1 April 2019. We are preparing to offer training, advice and support to registered social landlords during the implementation period.

Housing (Amendment)(Scotland) Bill

10. The Commissioner gave evidence on the Bill to the Local Government and Communities Committee on 29 November, sharing his concerns about the impact of the Bill on the right to access environmental information from registered social landlords. You can read his evidence to the Committee at www.itspublicknowledge.info/reports.
11. The Commissioner has held subsequent meetings with Scottish Government officials to discuss potential legislative changes to avoid a "lacuna" in the right to ask for environmental information in the period between the Bill coming into effect and the timescale for designation of RSLs under FOISA.

Guidance

12. We're continuing to add to our briefings on the Environmental Information (Scotland) Regulations 2004. New briefings at www.itspublicknowledge.info/Briefings include new guidance on topics such as the definition of environmental information and which bodies are subject to the regulations.

Promoting FOI Rights

13. We commissioned questions in an Ipsos MORI survey of children and young people in November. It found that only 28% were aware they had FOI rights, compared to 85% of the general population.
14. In December, during the Scottish Youth Parliament's Rights Week, we published a new short video on Twitter to tell young people about their FOI rights. It was viewed 650 times. We're planning further such activities during the Year of Young People 2018 and will add these to our guidance for the public on using their FOI rights www.itspublicknowledge.info/YourRights.

We delivered training for journalism students at Napier University last week.

Promoting FOI good practice

15. We held two public authority roadshows last month:
 - Greater Glasgow roadshow, Thursday 1 February, in Glasgow
 - Fife roadshow, Tuesday 20 February, in Kirkcaldy
16. These events provide free training for public authority staff in the local area, covering issues such as Appeal-proofing your FOI practice, Personal Information and FOI, Handling challenging requests.
17. The Centre for FOI Practitioners' Conference is on Tuesday 8 May 2018.

Model Publication Scheme monitoring

18. Our annual Model Publication Scheme monitoring exercise is underway. We notified Chief Executives (and FOI contacts) before the start of the mystery shopping-style research of authority compliance. The report will be published in April.

Contact us

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