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| Report to: | Senior Management Team (SMT) |
| Report by: | Margaret Keyse, Head of Enforcement (HOE) |
| Meeting Date: | By email - August 2022 |
| Subject/ Title: | Vexatious and repeated requests: review of key document (VC173785) |
| Attached Paper | C2 FOISA Guidance: Vexatious or repeated requests; Frivolous or vexatious applications v03 DRAFT (VC 131571) |

Purpose of report

1. To seek SMT approval following the review of a key document.

Recommendation and actions

2. I recommend that SMT:
 - (i) approve the changes to the attached key document
 - (ii) agree the recommendations as set out in “Records management impact” below and in the document control sheet attached to the key document
 - (iii) agree with the recommendations as set out in “Publication” below.

Executive summary

3. Section 43 of the Freedom of Information (Scotland) Act 2002 (FOISA) requires the Commissioner to promote the observance by Scottish public authorities of the provisions of FOISA, the Environmental Information (Scotland) Regulations 2004 (the EIRs) (see regulation 18) and the Codes of Practice.
4. The Commissioner must also determine what information it is expedient to give to the public on the operation of FOISA, the EIRs and the Codes of Practice.
5. One of the ways we comply with these duties is by publishing guidance on various provisions of FOISA and the EIRs.
6. Our guidance on vexatious and repeated requests (which also encompasses guidance on vexatious and frivolous applications under section 49 of FOISA) has been reviewed to ensure that it reflects recent decisions.
7. The format of the briefing has also been reviewed to make it more user friendly and easier to follow. Instead of a list of cases being in an Appendix, we have added case studies and references to decisions throughout the main text of the briefing.

Risk impact

8. Publishing – and keeping updated – guidance for stakeholder groups mitigates risks relating to stakeholders misinterpreting the provisions in FOISA.

Equalities impact

9. There are no direct equalities impacts arising as a result of the recommendations in this report.

Privacy impact

10. There is no direct privacy impact arising from this committee report or from the document submitted for approval.

Resources impact

11. None directly arising from this report.

Operational/ strategic plan impact

12. The review of the guidance supports various operational plan activities, e.g. providing new advice and guidance.
13. Reviewing the guidance also works towards the strategic objectives as set out in the Strategic Plan 2020-2024, including:
 - (i) increasing knowledge and understanding of FOI rights (Strategic Aim 1)
 - (ii) enabling and supporting high standards of FOI policy and practice (Strategic Aim 2)

Records management impact (including any key documents actions)

14. The document submitted for approval is a key document and will be added to the Register of Key Documents, as soon as possible.
15. I am the Responsible Manager for the document.
16. It is recommended that the updated version of the guidance be published on our website in advance of the Centre for Freedom of Information FOI Practitioners' Conference on 24 August 2022: one of the talks at the seminar will cover handling vexatious requests and it would be useful to be able to refer attendees to the updated version.

Consultation and Communication

17. The revised draft has been considered by the Acting Head of Policy and Information.
18. Minute and publication

Publication

19. I recommend that this committee report is published in full.
20. I also recommend that the attached paper is withheld in full on the basis that it is exempt from disclosure under section 27(1) of FOISA (Information intended for future publication): as noted above, the paper should be published on or before 24 August 2022.