Self-assessment Toolkit Capture, Assess, Improve

Module 1: Responding on time
Standards and Criteria

Scottish Information
Commissioner

Contents

Glossary and Abbreviations

Term used	Explanation
A&A	Advice and assistance
The Commissioner	The Scottish Information Commissioner
EIRS	Environmental Information (Scotland) Regulations 2004
FOI	FOISA and the EIRs
FOISA	The Freedom of Information (Scotland) Act 2002
SIC	The Scottish Information Commissioner, staff of SIC (depends on context)
S10/R5(2)and R7	Section 10(1) of FOISA / regulations 5(2) and 7 of the EIRs
Section 60 Code / S60 Code /the Code	Scottish Ministers' Code of Practice on the Discharge of Functions by Scottish Public Authorities under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004

Cross-referenced VC documents (for internal use)

VC No	VC name
76462	TOOLKIT Guide: Getting started

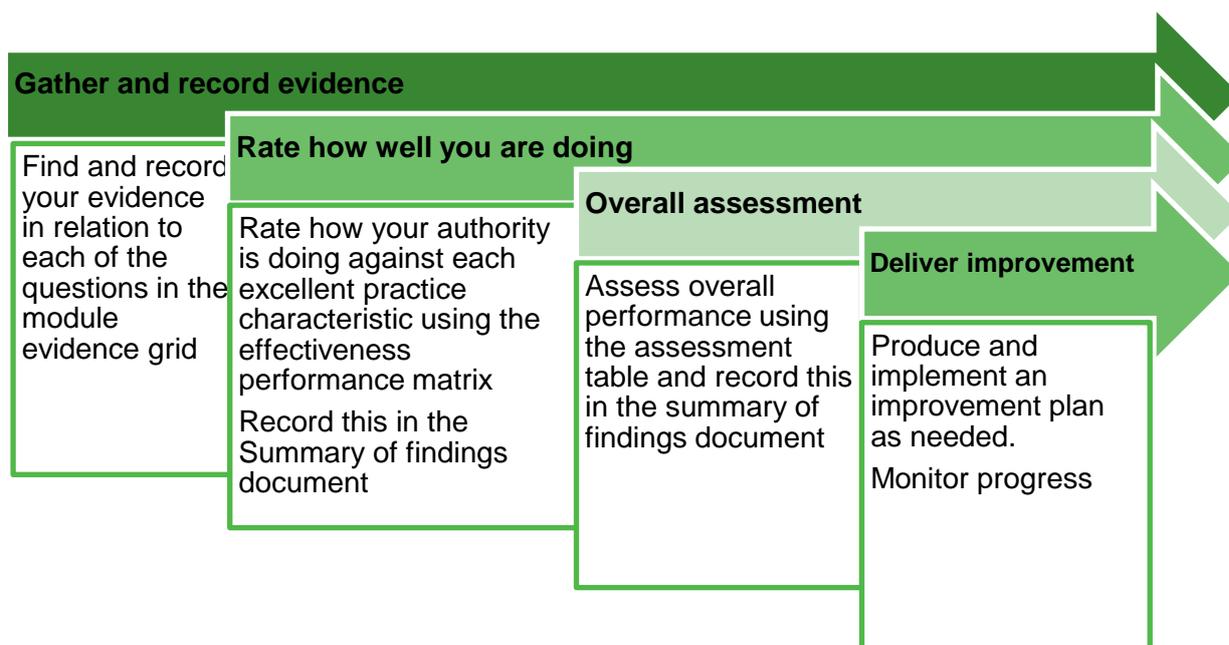| VC No	VC name
76466	TOOLKIT Introduction to the FOI self-assessment toolkit
76472	TOOLKIT Guide: How to carry out an FOI self-assessment
76482	TOOLKIT TEMPLATE Summary of Findings
76486	TOOLKIT TEMPLATE Improvement Action Plan
76497	TOOLKIT Module 01: Assessment Questions and Evidence Grid

Introduction to module 1: Responding on time

1. This document sets out the standards and criteria against which you will assess your authority's FOI performance in discharging its duties under section 10 of FOISA and regulations 5(2) and 7 of the EIRs to respond within statutory timescales (20 working days).

2. The duty to respond on time is fundamental to enabling people to exercise their right to ask for information. It provides an opportunity for authorities to develop a relationship with service users based on openness and transparency. If adhered to, this builds trust and confidence. Excellent authorities respond *promptly* without waiting for 20 working days to elapse because they put service users at the heart of their processes and want to communicate well, rather than because the law says they must.

3. We recommend you read our guidance on **Getting Started** and **How to Carry Out an FOI Self-assessment**, available on the Self-assessment toolkit web page for advice about how to carry out your assessment and apply the standards.

4. The purpose of self-assessment is to:

    - enable an authority to **capture** the organisation's strengths and good practice in the application of FOI law and codes of practice, then

    - **assess** the effectiveness of that practice, to then

    - identify where and how practice can **improve**.

5. Self-assessment focuses on the key questions:

    (i)   **What** are we doing?

    (ii) **How** well we are doing it?

    (iii) **What** are we going to do now?

6. The standards around which the module is written are based on achieving an "excellent" rating. But don't feel this is what you have to aim for right away. Improvement is a journey and you may want to take it in stages. The minimum requirement to meet statutory duties is "adequate". Also bear in mind this module relates to just one area of FOI practice, it may well be that your overall improvement plan is to achieve different rating for different areas of practice, depending on your organisation's wider strategic and business aims, or to bring all areas up to the minimum adequate standard.

7. This document is in sections:

    (i)   **Overview of process**: how to carry out an assessment.

    (ii) **Outcomes and legal context**: what you could achieve through this self-assessment, and your authority's duties under FOI. To comply with FOI legislation, you must achieve at least an **adequate** rating overall.

    (iii) **Characteristics of good practice:** these give you an overview of what excellent practice in giving advice and assistance looks like.

    (iv) **What next**: improvement planning.

(v)   **Assessment ratings and criteria**: the standards against which you rate your authority's performance as **Excellent, Good, Adequate** or **Unsatisfactory.** (NB, this section is A3 to make it easier to read but should print out as A4 if sent to an A4 printer)

Overview of Process

8.   Our guidance **How to carry out a self-assessment** and later sections of this document set out how to approach an assessment, but in summary:

Gather and record evidence

Find and record your evidence in relation to each of the questions in the module evidence grid

Rate how well you are doing

Rate how your authority is doing against each excellent practice characteristic using the effectiveness performance matrix

Record this in the Summary of findings document

Overall assessment

Assess overall performance using the assessment table and record this in the summary of findings document

Deliver improvement

Produce and implement an improvement plan as needed.

Monitor progress

Module 1 outcomes and legal context

Outcomes

9.   Good FOI practice in responding on time contributes to:

(i)   Increased public trust in Scottish public authorities based on developing your culture of openness and transparency.

(ii)   Compliance with FOI law and the Section 60 Code of Practice.

(iii) Reduced likelihood of risk of failure leading to FOI reviews and appeals (particularly upheld appeals) to the Commissioner.

(iv)   Increased service user satisfaction and better relationships with service users.

(v)   Improved quality of the service you provide, both in responding to requests and in communicating with service users.

(vi)   More efficient FOI practice and information governance.

Legal context

10.   Section 10(1) of FOISA requires authorities to respond to information requests *"…promptly and by not later than the twentieth working day…"*

11. Regulation 5(2) of the EIRs requires authorities to respond to environmental information requests "*…as soon as possible and in any event no later than 20 working days after the date of receipt of the request.*"

12. Regulation 7 of the EIRs gives authorities powers to extend timescales for a further period of 20 days if the requested information is both voluminous and complex, but the requester **must** be told of this as soon as possible and no later than 20 days from receipt of the request.

13. Under section 60 of FOISA, the Scottish Ministers publish a Code of Practice for Scottish public authorities. The Section 60 Code gives guidance to authorities on good practice to follow when responding to information requests, making several references to the importance of meeting statutory timescales.

14. While compliance with the Section 60 Code of Practice is not statutory, failure to comply with the Code is treated by the Commissioner as a failure to meet FOI duties.

The characteristics of excellent practice in responding on time

15. Excellent FOI practice in providing responding on time has five characteristics:

    1. The authority responds to requests for both information and for review within statutory timescales for 96-100% of requests.

    2. Leadership commitment to the principles of FOI and to compliance with statutory timescales

    3. FOI monitoring and reporting performance against targets timescales. Performance is reported at the appropriate level(s) of the authority

    4. Knowledge across the authority of statutory FOI duties, including timescales, and FOI policies and procedures

    5. Arrangements for efficient handling of requests for information and review, including systems for logging requests and reviews, and tracking progress.

ONE: Response rates

Clear targets are set for response times and senior managers monitor performance against them.

This looks like:

✓ The authority responds to both requests for information and for review within statutory timescales for 96-100% of requests.

TWO: Leadership commitment

Leadership commitment to the principles of FOI and to compliance with statutory timescales.

This looks like:

✓ Targets are set for responding to FOI requests and reviews on time.

✓ A named senior officer is responsible at strategic level for compliance with FOI across the authority. All senior staff are accountable for compliance with FOI law.

✓ It is clear who is accountable at all levels of the authority for compliance with timescales and this is reflected in written procedures.

✓ Sufficient resources are dedicated to responding to FOI requests.

✓ Senior managers are tasked to mitigate the risks associated with practice failures and increased costs in relation to reviews and appeals, by ensuring that requests are handled efficiently and effectively at the first stage.

THREE: tracking, monitoring and reporting performance

FOI performance is monitored against targets and statutory timescales. Performance is reported at the appropriate level(s) of the authority.

This looks like:

✓ Managers routinely consider FOI performance against targets.

✓ FOI performance reports provide a breakdown of performance by business areas so that non-compliance is identified.

✓ Senior managers ensure that lessons are learned when responses are issued late.

✓ Regular monitoring identifies, as early as possible, any issues that could impact on compliance with response times. Where performance is deficient, senior managers set targets, drive action and monitor improvement.

✓ Fluctuations in performance in responding on time are examined to identify any staffing or resource issues.

✓ Requests and reviews are actively monitored. When a response is late or is likely to be late at any stage of internal processes, it is clear who is responsible for taking action and the action that they will take.

FOUR: Knowledge across the authority of FOI duties

> **Knowledge across the authority of statutory FOI duties, including timescales, and FOI policies and procedures**
>
> *This looks like:*
>
> ✓ All staff, including new starts, receive at least basic FOI training.
>
> ✓ All staff can recognise an information request (including a verbal request for environmental information) and reviews. They know what they are responsible to respond to themselves, what they must forward to a named colleague or team, and the deadline for action.
>
> ✓ More detailed training is provided to staff responsible for responding to requests and reviews. The training includes the approach to searches, cost calculations, clarification and third party consultation to ensure that responses are still issued on time.
>
> ✓ Staff providing absence cover are sufficiently knowledgeable and receive training so they can give accurate responses on time.
>
> ✓ There are regular FOI updates to staff and these include reminders about responding on time to requests and reviews.

FIVE: Arrangements for responding on time

> **The authority has clear FOI policies and procedures which explain what must be done, by whom and when.**
>
> *This looks like:*
>
> ✓ Policies and procedures are supported by effective logging and tracking systems. Maintaining accurate and up-to-date data in the logging system is mandatory.
>
> ✓ The logging and tracking system captures data about the current status of all requests and reviews; e.g. searches in progress, draft response, response issued.
>
> ✓ The system captures how long it took to issue responses following receipt and any lessons learned from cases where responses were late.
>
> ✓ Roles and responsibilities, escalation routes and delegated authority are clearly defined and there are internal deadlines for responding to colleagues tasked with answering FOI requests.
>
> ✓ Staff responsible for responding to a request or request for review have the necessary authority to demand information from colleagues, undertake or commission searches and cost calculations from other business areas.
>
> ✓ There are robust arrangements to ensure that there is cover for staff absences, planned or unplanned.

Ratings and evaluation criteria

Rating

16. Performance is rated as: **Excellent**, **Good**, **Adequate** or **Unsatisfactory.**

17. In order to comply with the legislation, you must achieve at least an **Adequate** overall rating.

Assessment table

Overall rating	
Excellent	• Excellent in at least 3 characteristics, 2 of which must be Response Rates and Tracking and Monitoring Performance. • No more than 1 adequate rating and no unsatisfactory ratings.
Good	• Good or excellent in at least 4 characteristics, 2 of which must Response Rates and Tracking and Monitoring Performance. • No unsatisfactory ratings.
Adequate	• Adequate, good or excellent in at least 4 characteristics, 2 of which must be Response Rates and Tracking and Monitoring Performance.
Unsatisfactory	• Unsatisfactory in Response Rates. or • Unsatisfactory in any 4 characteristics.

18. Remember, when you apply these standards, you should be proportionate in your approach. It is the adequacy of your FOI approach and arrangements, and the outcomes they deliver that are important. For example, where the criteria call for "a tracking or monitoring system", for some authorities this many be an IT-based case-management system, while for others it may be a simple spreadsheet.

What next?

Work plan

19. Reflect on your evaluation and develop an appropriate work plan using the **Improvement Action Plan**. This may be a plan to improve your rating or a maintenance plan to ensure you maintain current standards. **How to carry out a self-assessment** gives you more details about this.

Help and advice

20. Contact our Policy and Information Team for further advice and guidance on using the Self-assessment toolkit on 01334 464610 or via enquiries@itspublicknowledge.info.

Effectiveness performance matrix

Please note for printing, this page is A3 size but should print as A4 if sent to an A4 printer

	Excellent	Good	Adequate	Unsatisfactory
Response Rates	• 96-100% of requests responded to within 20 working days* • 96-100% of review requests responded to within 20 working days** • Appeals about failure to respond to SIC are **rare** and **rarely** upheld	• 85-95% of requests responded to within 20 working days • 85-95% of review requests responded to within 20 working days • Appeals about failure to respond to SIC are **rare** and **rarely** upheld	• 80-84% of requests responded to within 20 working days • 80-84% of review requests responded to within 20 working days • Appeals about failure to respond to SIC are **occasional** and **sometimes** upheld	• <80% of requests responded to within 20 working days • <80% of review requests responded to within 20 working days • Appeals about failure to respond to SIC made **regularly** and **often** upheld
Leadership commitment	• Strategic responsibility for FOI performance with **clearly** named senior officer • **Universal** understanding of who is responsible and accountable for FOI at all levels of the organisation • FOI compliance embedded in budgeting, **risk management** and governance systems	• Strategic responsibility for FOI performance with **clearly** named senior officer • **General** understanding of who is responsible and accountable for FOI at all levels of the organisation • FOI compliance **generally covered** in budgeting, risk management and governance systems	• Strategic responsibility for FOI performance understood at senior level but not clearly articulated • **Some** understanding of who is responsible and accountable for FOI at all levels of the organisation • FOI compliance **occasionally** covered in budgeting, risk management and governance systems	• Strategic responsibility for FOI performance not assigned to named senior officer • **Little or no** understanding of who is responsible and accountable for FOI at all levels of the organisation • FOI compliance **rarely or never** covered in budgeting, risk management and governance systems.
FOI tracking monitoring and performance reporting	• **Regular** monitoring and reporting against standards and performance measures • Learning from practice **routinely** drives continuous improvement • Requests and reviews **routinely** tracked and monitored • Performance management framework **includes** FOI request/ review handling	• **Regular** monitoring and reporting against standards and performance measures • Learning from practice **generally** drives continuous improvement • Requests and reviews **generally** tracked and monitored • Performance management framework **includes** FOI request/ review handling	• **Periodic** monitoring and reporting against standards and performance measures • Learning from practice **occasionally** drives continuous improvement • Requests and reviews **generally** tracked and monitored • Performance management framework **includes** FOI request/ review handling	• **Little or no** monitoring and reporting against standards and performance measures • Learning from practice **rarely or never** drives continuous improvement • Requests and reviews **rarely** tracked and monitored • Performance management framework **does not include** FOI request/ review handling
Knowledge across the authority	• **All staff** can recognise an information request or review request • **All staff** are competent to meet FOI duties appropriate to their role • Training, guidance and other support arrangements **routinely** reviewed and updated • **Regular** updates and refresher training issued/provided to all facing staff	• **All staff** can recognise an information request or review request • **Majority** of staff are competent to meet FOI duties appropriate to their role • Training, guidance and other support arrangements are **routinely** reviewed and updated • **Regular** updates and refresher training issued/provided to all staff	• **Majority** of staff can recognise an information request or review request • **FOI** staff are competent to meet FOI duties • Training, guidance and other support arrangements are **generally** reviewed and updated • **Ad hoc** updates and refresher training issued/provided to FOI staff	• **Only FOI staff** can recognise an information request or review request • **Little or no** training delivered or no guidance or support provided • Training, guidance and support arrangements are **not** kept up to date • Updates/refresher training **rarely or never** issued/provided
Arrangements for responding on time	• Policies and procedures **significantly** exceed the requirements of the S60 Code by focusing on "prompt" responses • It is **clear** how requests and reviews are logged and monitored, and by whom • FOI roles and responsibilities of **all staff** are covered • Levels of authority and escalation routes **clearly** articulated • Robust arrangements for **absence** are covered	• Policies and procedures **meet** the requirements of the S60 Code by focusing on meeting statutory timescales responses • It is **clear** how requests and reviews are logged and monitored, and by whom • FOI roles and responsibilities of **all staff** are covered • Levels of authority and escalation routes **clearly** articulated • Robust arrangements for **absence** are covered	• Policies and procedures **meet** the requirements of the S60 Code by focusing on meeting statutory timescales responses • It is **clear** how requests and reviews are logged and monitored, and by whom • FOI roles and responsibilities of **FOI staff** are covered • Levels of authority and escalation routes **unclear** but **understood** by FOI staff • Arrangements for **absence** of FOI staff are covered	• Policies and procedures **do not** ensure compliance with statutory timescales • Requests and reviews are logged and monitored but arrangements are **not clear** • **Some** roles and responsibilities of **FOI** are covered • Levels of authority and escalation routes **unclear or not** articulated • No arrangements for **absence**

* If an authority receives only a small number of requests, which means that missing one response would result in missing these targets, they should be adapted and an explanatory note attached.

** Apply the timescales for the initial response first. Review performance should be comparable. E.g. 91% of requests on time + 96% of reviews on time = good. If review performance is lower than requests, use your judgement. E.g., 87% of requests on time & only 80% of reviews on time & measures in place to improve review performance = overall performance is good. To achieve "excellent" reviews **and** requests must both be responded to in 96-100% of cases.

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26/08/16	KB	02.02	02.03	DCS updated, published on website
26/08/16	KB	02.03	02.04	DCS updated, published on website
13/09/16	SH	02.04	02.05	Resolved typing error in para 15 (referred to advice and assistance rather than responding on time)
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