

'Any person who requests information from  
a Scottish public authority which holds it  
is entitled to be given it by the authority'

The Freedom of Information (Scotland) Act 2002



This full report is available on my website  
[www.itspublicknowledge.info](http://www.itspublicknowledge.info) and in hard copy  
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**Kevin Dunion**

Scottish Information Commissioner

November 2004



Welcome to my first annual report which provides an overview of the work I have undertaken to support the implementation of the Freedom of Information (Scotland) Act 2002, to prepare for the new right to information held by Scottish public authorities and to establish my own Office to prepare for enforcing the Act from 1st January 2005.

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# Freedom of Information Commentary 2004

## Learning from others' experience

More than 50 other countries already have freedom of information legislation and this number is set to increase still further over the next few years. Globally, the basic frameworks of freedom of information regimes are relatively similar, conferring the right to information held by public bodies, with a subsequent right to internal review if a request is initially refused and provision for an external appeals process. However, there are key differences in the way that the right to information is operated and while the Scottish Parliament looked particularly closely at the experience of New Zealand and Ireland, our Act is distinctly Scottish. The Parliament's general intent cannot be doubted, the clear and unambiguous opening section of the Freedom of Information (Scotland) Act 2002 (the Act) states: "Any person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority" The commitment is supported throughout the Act by a requirement on authorities to comply with the request within 20 working days, to advise and assist the applicant and to justify their reasons for withholding information.

The lessons from other jurisdictions, however, show that we will need more than strong legislation; freedom of information presents significant challenges to established practices. Public authorities, including government, can be slow to make the necessary culture change. In extreme cases, impediments to freedom of information creep in over time to weaken its impact and, ultimately, undermine its very intent. So I will be keeping in touch with my counterparts in other jurisdictions - to learn from good practice, to consider decisions which they have come to on appeal, to hear what impacts legislative changes have caused and to get a feel for what kind of progress we should expect to be making in Scotland as our public authorities' response to our own freedom of information Act matures.

## Developing the Office of the Scottish Information Commissioner

Over the last year I have been asked more than once why Scotland needed its information commissioner to be in post "so early" - when the Act doesn't come fully into force until 1st January 2005. There are two main reasons. Firstly there was no existing authority to which responsibility for enforcing the Act could be given. The other is that 1st January 2005 is the 'big bang' date for the full implementation. In fact, in 2004 authorities had to meet the duty to produce a publication scheme, approved by me, setting out which information the authority holds and intends to publish. The timetable meant that the first schemes were being submitted from December 2003.

My initial priority on appointment was, therefore, to establish the necessary organisational capacity to ensure that I could fulfil my obligations to approve publication schemes and to support some 10,000 Scottish public authorities to prepare for implementation. This was a challenging task, starting a new



50 countries with the legislation  
 >> Scottish Act is distinctly different

>> 10,000 Scottish public authorities  
 1 1st Jan 2005 Act comes into force

20 working days for authorities to comply with information request

organisation completely from scratch, including recruitment; developing a corporate presence; and putting in place robust systems and procedures for the diverse range of functions we will perform. These activities are described in greater depth later in this report. I am, however, pleased to report that my Office has been fully staffed and open for business since October 2003, within 8 months of my appointment.

## Preparing for Implementation

The implementation timetable for the Act has brought challenges to all Scottish public authorities, not just my own. Our early work with public authorities has focused on raising awareness, not just of the Act itself, but of the need for action to prepare for implementation. Although there were some initial concerns about the timetable for implementation and a few instances of outright scepticism about the need for the Act, we have found that the majority of authorities have responded positively to their new duties. We undertook research into public authorities' preparedness and the findings from this informed the many presentations by my Office to conferences, seminars and sector representative groups. We have also sought to provide prompt and full responses to authorities' enquiries to the Office. These have been as diverse as "Does freedom of information trump copyright?", "Is information held in a public library exempt?" and "Can a voicemail message be a valid freedom of information request?" The extent of our engagement with public authorities over the last year has brought additional benefits to the Office as we have gained a better understanding of many of the issues particular to sectors and the implications of freedom of information for the public sector in general. From 2005, while we will continue to provide services to public authorities, we intend to shift the focus of our resources to raise the public's awareness of their new right.

## Code of Practice on Access to Scottish Executive Information

In October 2003, the responsibility for handling appeals under the Code of Practice on Access to Scottish Executive Information was transferred from the Scottish Public Services Ombudsman to me. Although this voluntary code (a precursor to the Act) had been in existence since 1999, surprisingly no-one had ever appealed against a refusal to provide information. This could be taken as being complete satisfaction with the handling of request, or a general lack of awareness of the provisions of the Code. I have since received two appeals, from The Sunday Times seeking information from the Scottish Courts Service and from an MSP seeking information from the Scottish Prison Service. A settlement was achieved in The Sunday Times case, whilst the other is still under investigation as this report goes to publication. Both stories have received considerable media coverage and have helped to generate some awareness of freedom of information in the period running up to the Act coming into force.

## Freedom of Information Commentary 2004 continued

### Environmental Information and Freedom of Information

Although the Freedom of Information (Scotland) Act creates a new general right to information, such a right has existed in respect of environmental information since 1992. As a result requests for environmental information will not be dealt with under the Act but under the Environmental Information (Scotland) Regulations. Revisions to these Regulations by the Scottish Executive bring them into line with the provisions of the Aarhus Convention and also, where possible, with the provisions of the Act. Key to this is the right of appeal to me where environmental information is withheld.

Scottish public authorities need to be alert to the fact that they hold environmental information. This includes emissions from their vehicle fleet, plans which affect the appearance of the countryside and activities which increase discharges or noise. Our research later this year will identify the extent to which public authorities recognise that they hold environmental information and, where this is the case, whether they have adequately prepared for information requests under the Regulations and the Act. I will be encouraging authorities to combine their procedures and charges for responding to environmental requests with those under the Act. In the majority of cases, it should make no material difference to the person making the request whether the information they seek falls under either the Act or the Regulations.

### How Freedom of Information will be used in Scotland

It is understandable that many Scottish public authorities have tried to quantify the likely impact of the new legislation on their organisations. They have found, however, that in the absence of accurate monitoring of current levels of requests it is difficult to make projections. Scottish public authorities already receive and answer thousands of requests for information from the public, from opening times to specific questions about the provision of services. Many have developed specific services for giving out information to the public, from public libraries and local offices through to modern call centres and websites. The public will not, in general, find it difficult to locate sources of public authority information, but they may well find it difficult to find the information they actually want. Our experience of approving publication schemes this year has shown that for some public authorities it has been a significant challenge to their custom and practice simply to provide information about their decisions and services. This would certainly suggest that some authorities are likely to find more difficulties in meeting information requests than others.

Over the last year, we have heard from a range of people who are likely to use their new right in the future. These include individuals who want to see information relating to a personal case involving a public authority and very active campaign

groups interested in how they might use the Act to get information about a range of issues. Some enquirers have told us that they have had a significant difficulty, so far, in getting any response at all from a public authority. This anecdotal evidence would suggest that I, like my counterparts in other jurisdictions, will need to tackle the problem of what has been termed mute or deemed refusals in the year ahead. At the international meeting of Information Commissioners in 2004, this was a major concern as research across several countries with freedom of information legislation in place shows that some 20% or more of requests are simply ignored or not replied to within the time limits laid down. The obligation to respond to requests for information is one of the most fundamental principles of freedom of information and I will expect all public authorities to comply with it.

Many authorities currently believe that they are open and accountable and have left behind a “need to know” culture. Others acknowledge that a change of attitude needs to take place and improvements in their systems will be necessary before they can provide a consistent response to the requestors of information. Preparation for and anticipation of the impact of the legislation takes us only so far. The strongest driver for change in public authority culture and practices is still likely to come from people using their new rights, from the volume and nature of requests to those organisations for information, and the preparedness to use the rights of appeal. Our public awareness research shows that once the public are aware of their new rights, they are likely to use them. I am charged by Parliament to promote the Act and I take this responsibility very seriously. The benefits of freedom of information to society are significant: accountable public authorities; improved participation in decision making processes and better public understanding of decisions made on their behalf.

As a long-standing advocate of freedom of information I am grateful to have the opportunity to play such a key role in making it work for Scotland.

**Anyone who has made a request for information to a Scottish public authority and is dissatisfied with the outcome can appeal to the Commissioner for a decision.**

## Who we are

**Kevin Dunion OBE**, the Scottish Information Commissioner has the statutory responsibility to promote and enforce the freedom of information in Scotland. He will determine appeals against refusals by authorities to provide information requested. The Commissioner is also the employer of all the staff in his Office, and is the Accountable Officer for its financial resources.

**Margaret Keyse**, Head of Investigations provides legal advice to the Commissioner and manages the enforcement processes within the Office.

**Sarah Hutchison**, Head of Policy and Information is responsible for the promotion of the new legislation to the public and to public authorities. She is also responsible for relationships with external organisations.

**Christine Edwards**, Administration Manager is responsible for all aspects of the running of the Office, including the financial accounts, property management and information technology systems.

**Simin Abrahams, Karen Bremner** (from September 2004), **Alison Davies, Caitlin Dalgleish, Martin Hughes, Paul Mutch, Claire Sigsworth and Lucy Scharbert, Catherine Sclater** (to June 2004), **Freedom of Information Officers**, respond to enquiries, approve publication schemes and, from 1st January 2005, will investigate appeals to the Commissioner. Each officer has also developed specific responsibilities such as responding to press enquiries, developing the website or records management within the Office.

**Mary Ingram and Alison Fernie, Administrative Assistants**, provide the full range of administrative support functions, including frontline contact for the Office with the public.







# What we do

I was appointed on 24 February 2003 by Her Majesty the Queen on the nomination of the Scottish Parliament. My role is to promote and enforce the Freedom of Information (Scotland) Act 2002 which comes fully into force on 1st January 2005 and the Environmental Information Regulations (Scotland) 2004 which must come into force by 14 February 2005.

## Enforcement

Anyone who has made a request for information to a Scottish public authority and is dissatisfied with the outcome can appeal to me for a decision. Appeals can be made about a failure to respond to a request, a refusal to provide information or the levels of fees charged by the public authority. Before appealing to me, the applicant must require the authority to review its decision and may only appeal if still dissatisfied.

If I need information from a public authority to determine an appeal I can require the authority to provide it. In exceptional circumstances, I may use powers of entry and inspection to see the information.

I am entitled to effect a settlement between the applicant and the authority, which does not require a formal decision.

Otherwise, following investigation, I will issue a Decision Notice. I may decide to uphold the decision of the authority, vary it or overturn it. If I decide that information should be provided to the applicant I can oblige the public authority to release the information. If an authority refuses to comply, I can refer the matter to the Court of Session, which may consider the failure as a contempt of court.

Either the person making the appeal or the public authority may appeal to the Court of Session against my decision, but only on a point of law.

## Publication Schemes

I am responsible for approving all Scottish public authorities' publication schemes. I can use my enforcement powers to compel authorities to submit schemes and to provide the information contained in them. I have not had to use such powers in 2004.

## Promotion

I am responsible for promoting the Act to the public and to public authorities. I have developed a promotion strategy. My Office provides an enquiry service to the public and to public authorities.



All Scottish public authorities must adopt and maintain a publication scheme which is approved by the Commissioner.



ACCESS

# Preparing to Implement the Act

The more that public authorities have anticipated their duties under the Act and the more that people are aware of their rights under the Act, then the better will be the culture of openness and accountability which the Act is intended to promote.

## Events

My Office collaborated with Holyrood Conferences and The Stationery Office to hold a Countdown to Freedom of Information Conference at Murrayfield Stadium in December 2003. This event was so over-subscribed that it was repeated in January 2004. The two conferences were attended by 580 participants, mainly from Scottish public authorities.

The conference programme provided an overview of the Freedom of Information legislation, consideration of the Data Protection Act and experience of developing publication schemes. Contributors to the events included representatives from the Scottish Executive, the UK Information Commissioner, the Council of Europe and the Campaign for Freedom of Information.

Feedback from delegates confirms that the conferences were effective in raising awareness among public authorities. Responses to electronic polling were used to help frame the questions for research into Public Authority Preparedness.

We are delivering a further series of 6 seminars across Scotland in Autumn 2004 reaching out to a wider audience of public authority staff in a local setting. Again they are all fully subscribed, with 850 delegates from 230 public authorities registered. The sessions provide both an overview and specific details of the implementation and interpretation of the Act and the Environmental Information Regulations.

We are working in association with Holyrood Conferences to deliver a further major event at the end of November 2004. The Access to Environmental Information Conference is expected to attract delegates from both the public sector and environmental campaign organisations. The programme is structured to both educate and inform delegates of their responsibilities under the Environmental Information Regulations and to offer advice and guidance on effective implementation.



2 major conferences

6 regional seminars

90 speaking engagements

>> research of public authorities

>> research of public awareness

## Speaking Engagements

We completed 90 individual speaking engagements from October 2003 to October 2004. Audiences for these events included individual public authorities, public sector groups and professional associations, other regulators and community organisations.

Throughout the year my Heads of Department and I attended meetings of the Scottish Freedom of Information Implementation Group organised by the Scottish Executive. Participants in this group include members of key public sector representative organisations, including COSLA, NHS Scotland, Association of Chief Police Officers Scotland and Universities Scotland. The group has contributed to the development of the Section 60 and 61 Codes of Practice for the Act, and the Fee Regulations.

## Research of Public Authority Preparedness for the Act

A study of Public Authority Preparedness for the Act was jointly commissioned with The Stationery Office from Craigforth Research and Consultancy. This study took the form of public authority responses to a questionnaire as well as follow up interviews with nominated staff.

Published in March 2004, the research provides a baseline for the preparedness of public authorities one year before implementation of the Act. Most public authorities indicated that they would meet deadlines for publication schemes and for processing information requests. Many were very concerned, however, as to whether their authorities' records management systems would be sufficient to comply with the new legislation. Most authorities intended to provide training for staff at different levels within their organisations, but few had definite plans for this. Interviews revealed a range of different attitudes to the new legislation and the duties imposed on public authorities.

## Preparing to implement the Act continued

### Research of Public Authorities' Preparedness for Implementation of the Act

Scottish public authorities told us that the Act will

- have a positive or very positive impact on their organisation (83%)
- improve their records management (93%)
- make their organisations more accountable (82%)
- impact on a wide range of operations in their organisations, from senior managers through IT, records management, legal services, policy making and communications through to frontline staff

Awareness of the Act was relatively high (93%) among senior managers, but low among customer facing staff (49%). However, most authorities proposed to provide training for staff later in 2004, close to the date for full implementation of the Act.

87% of respondents were confident that they would have systems and procedures in place to comply with the Act by 2005. Where they were concerned, they attributed this to poor knowledge of the information held by the authority or inadequate capacity to retrieve it, inadequate resources, low understanding of the Act or the challenging timetable for implementation.

96% had identified or planned to nominate a member of staff to be responsible for freedom of information in their organisations. 83% had appointed (or planned to appoint) someone with responsibility for records management, although this tended not to be a specially created post.

62% had started work on their publication schemes, 91% had conducted or planned to conduct an information audit. Disappointingly, however, even from the outset, 56% had no intention of consulting the public about the content of their schemes.

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### Research of Public Authorities' Preparedness for Implementation of the Act continued

There were key differences in the records management of information in different formats. 91% of respondents thought that they could retrieve paper information in response to a request. They were significantly less confident about their ability to retrieve electronic documents, particularly information stored in obsolete formats.

Only 58% had developed retention and disposal policies for their records. This is of concern, not least because such a policy is one of the most basic requirements of effective records management.

Public authorities were unable to estimate how many information requests they currently receive and therefore predict how they expect this to change once the Act is in force.

The research also indicated significant cultural barriers within some public authorities to the effective implementation of the Act. These included:

- The slowness of large public authorities to bring about change
- Employees are not used to volunteering information and even when asked there is a tendency not to give it out
- Cynicism about the potential benefits for the public
- Scepticism about the level of requests the authorities will actually receive from the public.



## Preparing to implement the Act continued

A further study of public authorities' preparedness will be published in December 2004. This study will compare the responses to the first report to the experiences of authorities one month before the Act comes into force. It will also identify approaches taken to prepare for the management of information requests. We expect the research to highlight further areas for action in the year ahead.

### Public Awareness

Preparation of my Public Promotion Strategy began in December 2003 with a series of contacts with advice and rights provider organisations, including Citizens Advice Scotland, Scottish Consumer Council, the Poverty Alliance, Scottish Child Law Centre and Children in Scotland. We also visited the Disability Rights Commission and the Commission for Racial Equality. These organisations provided helpful experience of promoting rights to their clients and communities to guide and inform my strategy. Other beneficial outcomes include agreements to work with Citizens Advice Scotland to develop freedom of information sections on their information system and with the Scottish Consumer Council to develop a plain language booklet explaining the right to public information for the general public.

The Public Promotion Strategy was published in April 2004. It comprises 3 strands of activity:

- » A general public awareness campaign to promote the new right (January to March 2005)
- » Promotion to advice and rights provider organisations and through their existing networks (August to December 2004)
- » Training and information for groups e.g., journalists, community councils and unions, who are likely to use the new right as soon as it comes into force (September 2004 to March 2005).

Our research, published in autumn 2004, provides a benchmark of levels of public awareness of access to information rights before the Act comes into force. This will be repeated in March 2005. The first study shows that most people see freedom of information as being useful to them and good for society, but they are confused about what they can expect from the new legislation. People will only feel confident about requiring authorities to release information which should be public knowledge if they are sure about their new rights.

We contacted media organisations throughout Scotland in June this year to offer training sessions on the Act. This project aims to improve the accuracy of reporting of the new right to information and also to inform journalists of how to use the Act in their own work. We have already completed training sessions with the following organisations:



The Scotsman, Scotland on Sunday, Evening News, The Herald, The Sunday Herald, Evening Times, Daily Record, Sunday Mail, Sunday Times, Evening Express, BBC, Press and Journal.

I made a key note presentation to the Society of Editors in September 2004.

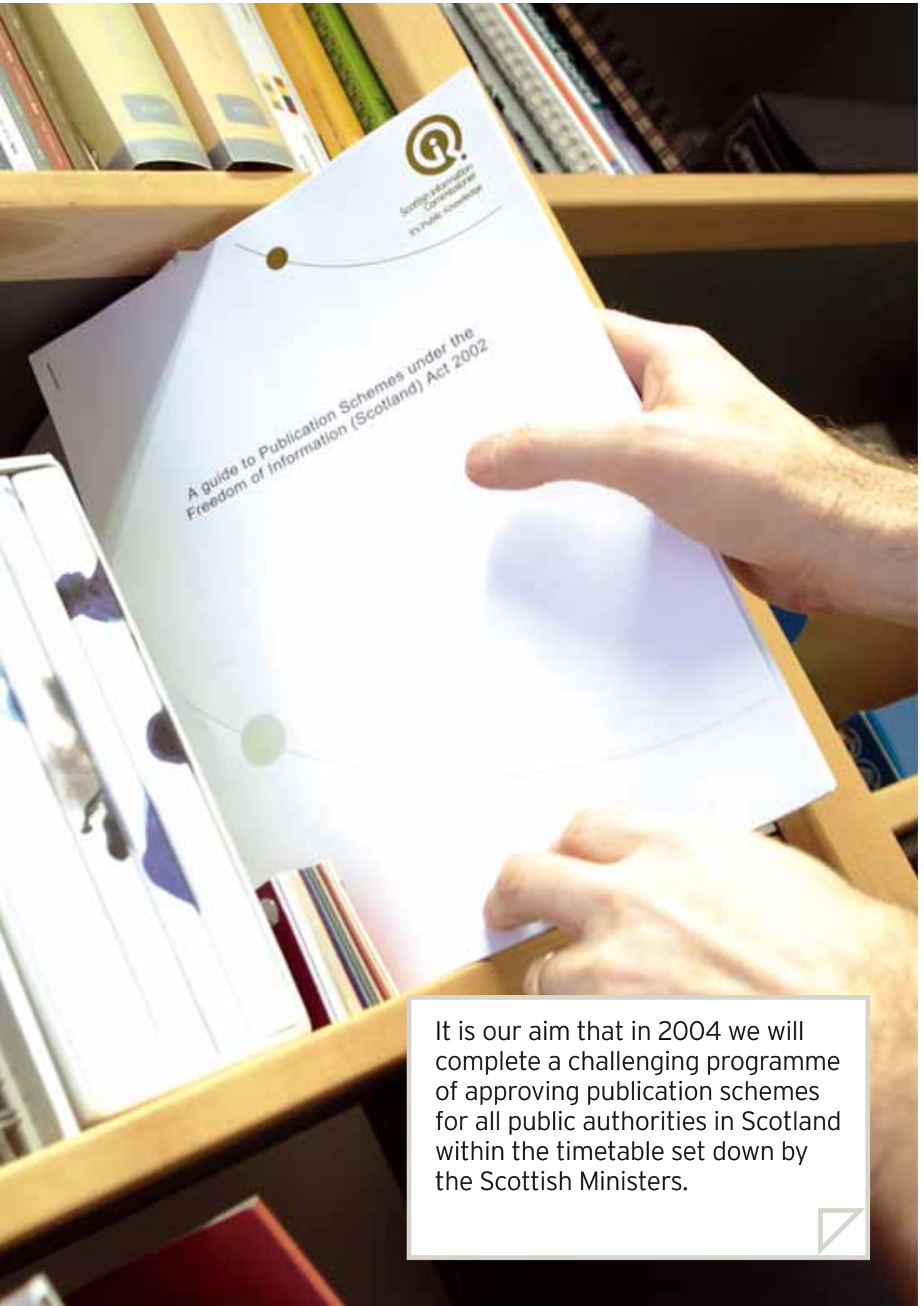
### Research of Public Awareness of the Act

- Only 30% of people surveyed said they definitely had heard of the Freedom of Information (Scotland) Act 2002, while another 14% said they thought they had.
- When asked what rights the law would create, two thirds of respondents thought it would provide access to personal information about themselves (already available under the Data Protection Act). Only 32% correctly believed it would give them access to general information (such as financial information, statistical data and policy papers).
- 12% said they were very or quite likely to use the right to access information during the next year.
- 79% agreed with the statement that “authorities will become more open and accountable” as a result of the Act.
- 57% agreed that members of the public will have more confidence in decisions made by public authorities as a result of the Act.
- However, 70% also voiced concerns that public authorities will find ways around the law to avoid releasing information that they don't want to release.



## Approving Publication Schemes

Publication schemes are an important and distinct feature of the Act. Section 23 imposes a duty on all Scottish public authorities to produce a publication scheme which includes information about the services they provide, their performance and how they make decisions. Schemes must also indicate how to access published information and how charges will be applied. The contents of publication schemes are more extensive than traditional publication lists or catalogues, the contents of which have always been decided by the authority.



It is our aim that in 2004 we will complete a challenging programme of approving publication schemes for all public authorities in Scotland within the timetable set down by the Scottish Ministers.



## Approving Publication Schemes continued

### Scottish Ministers' Timetable

Freedom of Information (Scotland) Act 2002 Schedule 1	Deadline for submission	Schemes to be approved and into effect
Central government, local government, police (parts 1, 2, 3 and 6)	28 February 2004	1 June 2004
NHS, educational institutions	31 May 2004	1 September 2004
All other Scottish public authorities and publicly owned companies	31 August 2004	30 November 2004


>> Publication schemes must be submitted to me for approval. The Scottish Ministers determined the timetable (see above) for public authorities to submit their schemes and to have them into effect by the end of 2004.

### Guidance to Public Authorities

I welcomed the Ministers' decision to implement the Act to align with the implementation of the equivalent UK Parliament legislation. We provided the following support to public authorities:

"A Guide to Publication Schemes" was published by us in October 2003 and circulated to all Scottish public authorities on CD Rom with a covering letter explaining the approval process. Our internal guide to the approval process was also published on our website. This included the name of the Freedom of Information Officer nominated to approve each public authority's scheme, who also acted as a point of contact to assist with enquiries and provided detailed comments to public authorities, especially where revisions to publication schemes were required before approval.

A positive response, wherever possible, was made to invitations to meet representatives of public authorities, public sector groups or professional associations to discuss particular issues arising from the publication schemes. For example, we met members of the Society of Archivists to consider issues about public access to archives, made presentations to Universities Scotland on issues specific to their model scheme and worked with Communities Scotland on the development of templates for social inclusion partnerships. Such direct contact informed development of extensive further information on our website for all public authorities.

<b>in brief</b> 	<b>12</b> model schemes approved	<b>&gt;&gt;</b> publicly owned companies identified
	<b>&gt;&gt;</b> support through sector organisations	<b>262</b> publication schemes approved waves 1 & 2

One of the most significant achievements in 2003-4 was the development of robust information systems for the office regarding Scottish public authorities. Significant effort was committed to identifying and locating the authorities covered by the Act. For example publicly owned companies are covered by the Act. Before now there appears to have been no attempt to identify how many such bodies there are - to date we have identified 289.

We now hold the contact details for all the public authorities covered by Schedule 1, with the exception of individual health practitioners. These will be available to the public through our own publication scheme by the end of this year.

### Development of Model Schemes

The Office provided extensive support to sector representative bodies which developed model publication schemes. This approach was particularly successful with the police, further and higher education and health sectors and is evident from the level of sign-up by individual authorities to the model schemes. We expect the sectoral approach to have particular benefits to the public who should find greater consistency across organisations with similar roles and remits.

>> [Model schemes were developed by the following sectors in 2004 \(see below\):](#)

### Model Publication Schemes

<b>Area Tourist Boards</b>	<b>General Practitioners</b>
<b>Assessors</b>	<b>Health Boards and Special Health Boards</b>
<b>Chief Constable of a Police Force in Scotland</b>	<b>Health Councils and Scottish Association of Health Councils</b>
<b>Community Pharmacists</b>	<b>Justice of the Peace Advisory Committees</b>
<b>Fire Boards</b>	<b>Local Enterprise Companies (owned by Highlands and Islands Enterprise Companies)</b>
<b>General Dental Practitioners</b>	<b>Optometrists</b>

The office also developed model schemes for Publicly Owned Companies (active and dormant) and a template scheme for Part 7 bodies.

## Approving Publication Schemes continued

The Office has responded effectively to its first major challenge: in just over a year of its operation the office will have approved publication schemes for all Scottish public authorities. This was achieved with only minimal preparation time and with minimal resources. While the timetable was quite challenging for Scottish public authorities, it was a real test of the capacity of this organisation.

The publication scheme approval process has been much more than an administrative task. This was our first contact with Scottish public authorities and it has provided an insight into the future challenges for this organisation. Many authorities responded very positively indeed to the duty to produce a scheme and we have collected examples of best practice along the way. The Scottish Environment Protection Agency and Glasgow City Council were particularly innovative about consulting people on the content of their schemes. Several authorities, including the University of St Andrews, Angus and Midlothian Councils have integrated their schemes with their websites to provide significantly improved information for the public. Regrettably, however, our experiences were not all positive: we encountered some authorities that were reluctant to provide even contact details for the staff running their schemes; we had to challenge authorities that tried to publish as little information as possible; we came across unreasonable charging practices. Scottish public authorities across the board have, however, responded to the challenging timetable set down by the Scottish Parliament and, to date, I have not had to use enforcement powers to ensure compliance.

>> [The following table shows the number of schemes submitted by public authorities on time and the number of schemes approved by my office by the deadline.](#)

All of these experiences have added to our learning about the Scottish public sector and will assist us in the work ahead. We also saw evidence over the year of learning by the sector itself. There was a marked improvement in the quality of publication schemes submitted to us in the second wave of the timetable. Not only did health and education authorities have slightly more time to prepare than the authorities in wave 1, but they were able to build on the work that had gone before, both by Scottish authorities and counterparts covered by the UK legislation. The quality of the schemes in wave 3 submitted by the 112 Part 7 bodies has improved still further. We are confident that we can continue to build on this learning in future reviews.

The duty to produce publication schemes is not a characteristic of all freedom of information regimes throughout the world. In my view, the publication schemes have several important benefits for Scotland. The first is obvious - they make information more accessible to the public by setting out what is available and

where to get it from. The Act makes explicit that authorities must publish information about their services and decisions (including the reasons behind those decisions). Schemes also provide an insight into which bodies are likely to hold what information. There has been an additional benefit this year for Scotland in raising awareness among Scottish public authorities of the need for action to comply with their duties under the Act - a timely wake-up for all concerned.

<b>Freedom of Information (Scotland) Act Schedule 1</b>	<b>Public authorities</b>	<b>Number of schemes approved</b>	<b>Approval deadline</b>	<b>% submitted on time</b>	<b>% approved by deadline</b>
Part 1	Ministers, The Parliament	19	1st June 2004	100%	100%
Part 2	Non-ministerial office holders in the Scottish Administration	16	1st June 2004	100%	100%
Part 3	Local government	98	1st June 2004	89%	97%
Part 4	The National Health Service	51	1st September 2004	69%	98%
Part 5	Educational institutions	62	1st September 2004	92%	100%
Part 6	Police	16	1st June 2004	69%	88%

The approval process for Part 7 ("Others") and for publicly owned companies was underway at the time of writing this report.

# Accountability and Transparency

We want to embody good practice in making available the information which we hold as well as publicly commenting on the progress in Scotland to improve freedom of information.

## Responding to enquiries

The Office continues to respond to enquiries from public authorities on a range of issues, including:

- >> [Interpretation of exemptions](#)
- >> [Information audits](#)
- >> [Charging for information](#)
- >> [Interaction of freedom of information and rights to privacy.](#)

The right to information does not come into effect until the beginning of 2005 and promotion of this new right is being timed for then. We expect a significant increase in our contact with the public from early January. We have had early contact with individuals and groups who have had past difficulties in getting information from public authorities and who see the direct relevance of freedom of information to their own issues.

The Frequently Asked Questions section of our website is continually updated to reflect the questions coming to us from actual enquirers. Our experience of what people want to know influences the development of our website and our publication scheme.

## Website Development

The website was initially developed by an external consultancy until the operation of the site could be brought in-house in December 2003. The site was then completely redesigned and expanded to provide improved layout and better search facilities. The content of the site has grown considerably since then, with the development of the publication schemes section, news and a registration facility. A monthly newsletter was initiated in November 2003 and by October 2004 our subscriber list had reached 900 addresses.

Use of the website has grown steadily from 1611 visitors per month in May 2003 to 7832 per month in August 2004. The site will be further revised in late 2004 to increase its public focus. Information for public authorities will continue to be available, but there will be more emphasis on explaining the right to information from 1st January 2005.





- >> enquiries service developed
- >> FAQs published

**7800**  
visits to website  
each month

- >> records management compliance
- >> on-line publication scheme

## Records Management

The Office, although a small organisation, handles a wide variety of information, only some of which we generate ourselves. An early records management strategy was produced in 2003, providing the framework for document storage and a file-naming protocol. This was intended as an interim arrangement and we are currently developing a document management system in 2004 to ensure best practice and compliance with the Section 61 Code of Practice on Records Management. A further priority is to ensure that effective security measures are in place for the receipt and storage of information provided by public authorities for the purposes of an investigation.

## Publication Scheme

As a public authority named in the Act, I am also required to produce a publication scheme. The process of developing the scheme began early in 2004 and included a consultation exercise and review of searches of our website to identify the information people would like us to publish. The scheme will be in effect by November 2004. We aim to make as much information available on our website as possible and are currently populating a large database that will be accessible on-line. We will also supply our information in response to telephone calls and written requests to our office.



# Establishing the Office of the Scottish Information Commissioner

As a new and independent body the challenge is to: >> Put in place and develop systems and procedures to meet our obligations as a public body >> Ensure our staff are equipped to meet the expectations and responsibilities of the Scottish Information Commissioner

I had to establish a new organisation from scratch. This included securing office premises, agreeing spending plans and staff structure for recruitment. This had to be done rapidly to ensure that the early implementation date of the legislation could be met.

After rapid consideration of a range of potential offices in Fife and Dundee a lease was signed on a suitable building in St Andrews. The Office comprises reception area, offices, one large and one small meeting room, secure records storage facilities and a staff area. The premises have been developed to be adaptable to change as my workload becomes established. This includes allowance for some future expansion in the staffing complement if required. Investment has been made in high quality IT systems and in providing a safe, secure working environment for staff within a publicly accessible building.

The office was officially opened on 29 October 2003 by Lady Alexander, wife of the late Sir Kenneth Alexander.

## Financial Resources

My financial resources are provided by the Scottish Parliamentary Corporate Body. £2.1 million was provided to cover the financial years 2002/03-2004/05 for my costs and my staff, the acquisition and adaptation of premises, the development of office systems and a promotional campaign in 2004/05.

>> The first full year of expenditure was 2003/04 and the breakdown of costs is shown on the right:

For 2005/06 a financial bid of £1.175 million was approved by the SPCB. Full annual accounts for 2003/04 as approved by the Auditor General are available on request from my Office: Tel 01334 464610 and on my website at

[www.itspublicknowledge.info](http://www.itspublicknowledge.info)

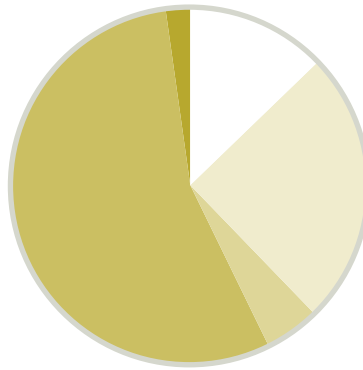
## Expenditure 2003/04, including Start Up Costs

**Staffing Costs £349,000 including salaries and pensions**  
37% of total budget

**Capital Expenditure £320,000**  
34% of total budget

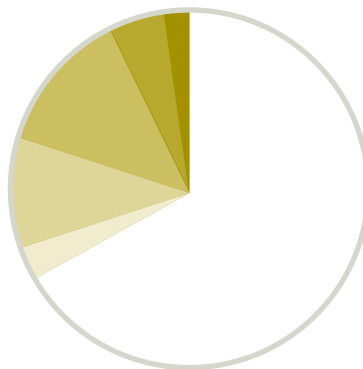
### Fixed Assets

IT Systems	13%
Fixtures and Fittings	25%
Artwork	5%
Buildings	55%
<b>Intangibles</b>	
Other	2%



**Operating Costs £273,000**  
29% of total budget

Administration*	67%
Travel expenses	3%
Depreciation	10%
Property**	13%
Audit	5%
Cost of capital	2%



\* (including research, promotion and stationery & utilities) \*\* (including rent and rates).

## Establishing the Office of the Scottish Information Commissioner continued

### Staff

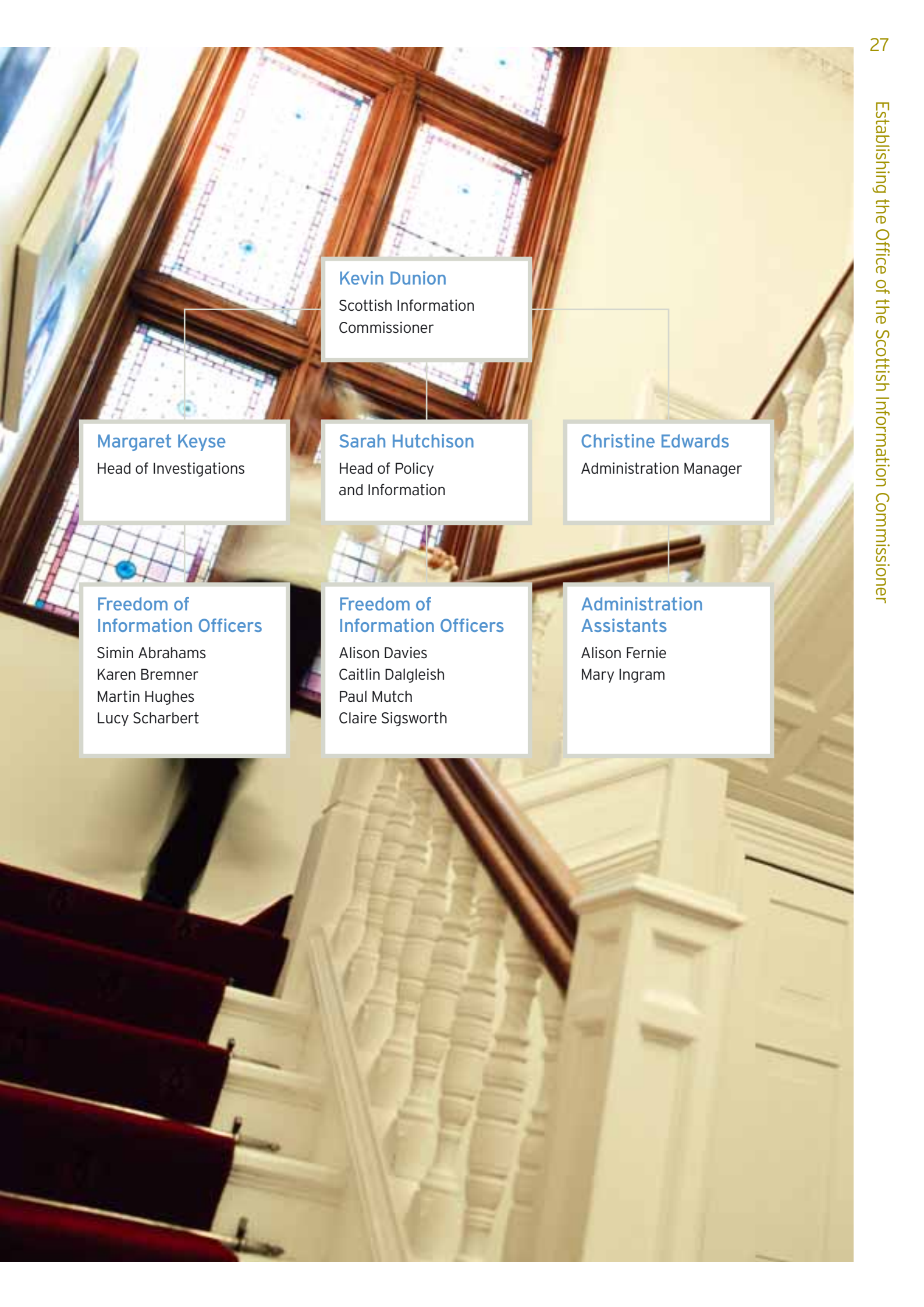
A complement of highly qualified staff is required to assist me in carrying out my functions. They carry out investigations and deal with enquiries from public authorities and members of the public. They carry out promotional work ranging from speaking to events to distributing an electronic newsletter. They implement the organisational systems for records and financial management expected of a public body.

Recruitment of staff was a major activity in the period from February to July 2003. I appointed consultants Law at Work to provide human resources and employment law advice and to administer the recruitment process. The Office organisational chart shows the allocation of staffing resources >> (see Who We Are section for an explanation of job roles).

I undertook a rigorous screening process to appoint my 13 staff from more than 300 applicants. The Administration Manager joined the Office in June 2003, followed by the Departmental Heads in July. By mid September 2003 the full staffing complement was in place.

My staff come from a wide range of professional backgrounds: private sector (including private legal practice and commercial organisations), public sector, (including local authorities, universities and the BBC), and voluntary sector organisations. They bring an exceptional range of skills, experience and knowledge to the organisation. An extensive induction programme was developed to meet the needs of very different individuals and to develop a common understanding of the role and function of the organisation.

My staff have been employed on conditions broadly similar to those of staff of the Scottish Parliament. As a completely new organisation, however, the development of staff policies and procedures was a high priority. An Employee Handbook was provided for all new staff as part of their induction, covering issues such as equality policy, terms and conditions, and expense claims. Other policies have been developed, encompassing the Green Office >> (see section below), information security, code of conduct and flexible working hours. A Performance Management System was introduced in time for the beginning of the 2004/5 financial year.



**Kevin Dunion**  
Scottish Information  
Commissioner

**Margaret Keyse**  
Head of Investigations

**Sarah Hutchison**  
Head of Policy  
and Information

**Christine Edwards**  
Administration Manager

**Freedom of  
Information Officers**  
Simin Abrahams  
Karen Bremner  
Martin Hughes  
Lucy Scharbert

**Freedom of  
Information Officers**  
Alison Davies  
Caitlin Dalglish  
Paul Mutch  
Claire Sigsworth

**Administration  
Assistants**  
Alison Fernie  
Mary Ingram

# Green Office Report

The main impact on the environment from our office arises from normal office running plus the costs of travelling to meet with public bodies and the distribution of promotional and information materials.

The office has 13 members of staff who are largely office based. Due to the nature of the organisation, no pool cars are used, and there are no stocks of materials (other than those used for office purposes). The areas that have the biggest environmental impact are:

- >> Energy
- >> Water
- >> Paper and other stationery
- >> Cleaning supplies
- >> Furnishings
- >> Staff travel.

From the outset I have sought to incorporate environmental considerations in the conversion and planned running of the new premises. I have been guided by the Friends of the Earth Scotland Green Office Action Plan. For us this means considering:

- >> The amount of waste the office produces and resources we consume
- >> The amount of energy we use
- >> Purchasing goods which are less environmentally-damaging
- >> The quantities of waste we recycle
- >> Fully reporting the environmental performance of the organisation in a clear and concise annual report.

Full year information has been recorded since 1st April 2004, and 2004/05 will provide a benchmark year for future reports.

## Energy

We have invested in equipment and office practices which aim to reduce the amount of energy we use in total. Computers, lights and copiers are switched off when not in use and draught proofing systems have been installed for better energy efficiency. However, we aim to make further improvements in the management of office heating.

## Paper

We are stringent regarding the use of paper in the operation of the office. Our Operational Plan, however, entails a high profile promotion which will include the



- >> reducing waste produced
- >> reducing resources used

- >> purchasing practices
- >> recycling activities

- >> monitoring & reporting

production of leaflets, brochures and flyers during 04/05, and 05/06. 06/07 will be a normal year of operation against which performance year on year can be gauged. We have made provision for all paper forms: card, paper, newspaper, magazines, and cardboard - to be separated and collected for recycling at a secure site.

## Office Supplies

We stringently monitor the use of office supplies and only buy what we need. There are regular stationery “amnesties”, when staff empty their desks of unwanted office supplies. We look at the environmental criteria of new office supplies and, wherever possible, only buy the more environment-friendly products.

## Office Maintenance and Cleaning

Office cleaning and maintenance are as environmentally-friendly as possible. Cleaning products and hygiene services are assessed for their environmental performance. Any office refurbishment decision takes the environment into account, including decorating materials and office furniture.

## Transport and Getting to Work

We promote use of public transport to visitors to our Office, supplying details of train and bus times and taxi numbers. We require staff to use public transport for meetings wherever possible, and where the use of cars is justified, promote shared use by staff.

We aim to achieve the following actions by the end of the financial year 2004/05

- >> Monitor statistics for the paper used in the Office
- >> Assess all furniture acquired for its potential impact on the environment
- >> Identify further waste streams which may be capable of reduction or recycling
- >> Monitor the use of energy in the building
- >> Reduce the amount of energy used overall in the building
- >> Promote non-car means of transport
- >> Reduce the need to travel
- >> Encourage staff to get involved in the Green Office.

**We have invested in equipment and office practices which aim to reduce the amount of energy we use in total.**

# Equality Report

Key achievements in the last year include:

## Recruitment Practices

Law at Work provided administrative services for the recruitment of all staff. All information that might be used to identify an applicant's age, gender, race or disability was withheld from the recruitment panel.

All job applicants were asked to complete anonymised equal opportunities monitoring forms. All successful appointees were required to submit equal opportunities monitoring forms. Data from the 2 sets of forms was analysed by the Management Team to identify any bias on the grounds of race, gender or disability.

## Premises

Access for disabled people was a requirement in the criteria for selection of office premises. Kinburn Castle already had a ramp at the front door and a disabled toilet. The reception area and main meeting room are fully accessible. Office accommodation is sufficiently flexible to accommodate employees with mobility difficulties.

## Promotion

The promotion strategy has been developed to ensure that it will be inclusive. Initial contact with equality rights organisations has advised the development of our action plan. We have adopted the Scottish Accessible Information Forum's information standard for our own publications and have promoted this to other public authorities in our guidance.

## Development 2004/05

We have developed both a race equality scheme and a disability equality strategy for the organisation. These set out further steps to improve our internal practices and to improve the accessibility of our organisation to all groups in society. Key actions for the current year include:

- >> Making arrangements for information to be provided quickly in alternative formats on request
- >> Further development of the physical office to improve accessibility for people with mobility, visual and hearing difficulties
- >> Provision and distribution of promotional materials in a range of formats
- >> Review of recruitment procedures
- >> Review of other internal policies.



in brief



&gt;&gt; positive recruitment procedures

&gt;&gt; disability equality strategy

&gt;&gt; race equality scheme

&gt;&gt; access improvements plan

&gt;&gt; recruitment &amp; workforce monitoring

## Recruitment Monitoring Statistics Summary

	<b>% Applicants*</b>	<b>% Workforce**</b>
<b>Male / Female</b>	44% Male 56% Female	15% Male 85% Female
<b>Married / not Married</b>	72% Married 28% not Married	54% Married 46% not Married
<b>White / not White</b>	97% White 3% not White	92% White 8% not White
<b>Disabled / not Disabled</b>	3% Disabled 97% not Disabled	0% Disabled 100% not Disabled

\* (total number of applicants 319)

\*\* (total number of workforce 13).

# Preparing for Enforcement

We will prepare the process by which we will investigate requests for decision in 2005 and share our thinking on key aspects of implementing the legislation.

We will have policy, procedures and systems for dealing with investigations and enforcement action under the Act and the Environmental Information (Scotland) Regulations by the end of 2004. Some of the groundwork for this was laid by learning from the experience of commissioners and ombudsmen in Scotland and other jurisdictions.

A fact-finding visit to the Office of the Irish Information Commissioner in Dublin provided insight into the investigation process, case management and the issuing of decisions. Meetings with the UK Information Commissioner in Wilmslow allowed us to debate issues around the interplay of freedom of information and data protection and agree how we may share information arising from investigations in the future. Participation in the Annual Conference of Information Commissioners gave insight into both the experiences of and approaches to freedom of information around the world.

We have devoted considerable energy to ensuring a thorough awareness and understanding of the Act and its Codes and the Regulations within our own organisation. We have learnt from the experience of other jurisdictions and considered how the new right to information will apply to the Scottish public and public authorities from 2005. We plan to make our learning available in late 2004 through briefings on key legal issues and exemptions.

We collaborated with Audit Scotland, the Scottish Public Services Ombudsman, the Legal Services Ombudsman, the Scottish Prison Complaints Commissioner and the Standards Commissioner to produce a "route map" on how to take forward complaints about public authorities published in late 2004.

We will continue to work with other public authorities to make our appeals processes as accessible and effective as possible.



We will make our appeals processes as accessible and effective as possible.



## Freedom of Information (Scotland) Act Timetable

November 1999

Scottish Executive launches  
**An Open Scotland** "Freedom of  
Information: A Consultation"

September 2001

Freedom of Information (Scotland)  
Bill introduced into the Scottish  
Parliament

April 2002

Freedom of Information (Scotland)  
Act passed by the Scottish Parliament

May 2002

Act received Royal Assent

February 2003

Scottish Information Commissioner  
takes up appointment

July 2003

Scottish Ministers announce  
implementation timetable

January 2005

Freedom of Information (Scotland)  
Act comes fully into force.

# 010105

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Scottish Information  
Commissioner

## Scottish Information Commissioner Annual Report 2004

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