

'A Really Open Scotland'

Strategic Plan 2008-2012



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The Scottish Information Commissioner, Kevin Dunion, was reappointed in February 2008, for his second (and final) term, which will run until 2012. This strategic plan lays out the Commissioner's vision for his final four years in office, and the strategies which will deliver against his aims.

The Vision for FOI: Scotland in 2012

Scotland has already been transformed by the right to information provided by the Freedom of Information (Scotland) Act since 2005. However more can be done to embed transparency and accountability in the culture and systems of those responsible for delivering public functions. *So what would a really open Scotland look like, at the end of this four-year strategic plan?*

Scotland will have become highly regarded as one of the most progressive nations in the practical application of freedom of information laws. Across Scottish society there would be a general acceptance that releasing information held by public authorities is the norm. Authorities would recognise that previous ways of working based on the assumption that information would not be requested or released are outmoded. Misgivings as to the potential harm from release will have diminished in the light of experience or have been mitigated by putting in place sensible information management measures. Investment will have been made in staff training, records management and electronic systems so that the manner in which information is created and retained is with a view to making much of it available as a matter of course.

A general acceptance as to the type of information which should be released and what can be withheld, based upon Scottish Information Commissioner and Court of Session decisions, will have emerged. Where authorities have concerns over how information may be interpreted, authorities will make an effort to place information into context rather than simply seeking to withhold it.

Requests for information will be more specific, and largely free from those which are testing the system or which constitute 'fishing expeditions'. Pragmatic arrangements will have been developed by which major and regular requesters come to an understanding with authorities which reduces formal recourse to the provisions of the Act e.g. between the media and key authorities; contracts between commercial requesters and authorities.

The Scottish Government will have maintained its commitment to FOISA, choosing to deal with any friction by promoting good practice and seeking pragmatic solutions rather than by legislative revision or imposing costs. The recognised benefits of freedom of information in ensuring accountability for public spending will have caused the provisions of the legislation to be extended to bodies which spend significant amounts of public funds on activities which deliver public services and benefit - which may include private and charitable bodies.

Authorities will be committed to a culture of openness. Information will be provided by authorities on request as a matter of course. More information will be made readily available electronically. Authorities will helpfully assist people to identify the information they want. Information will be created and stored with a view to making as much publicly available as possible. Where authorities withhold information they will tell the applicant the reasons for doing so, setting out why exemptions apply and, where applicable, why the balance of the public interest favours non-disclosure. The decisions of the Commissioner are respected and established precedent will be used when responding to requests.

People will be even more aware of their rights to information no matter their age, gender ethnicity or socio-economic status. They will be mindful that requests for information should avoid imposing an unreasonable burden on an authority's capacity to respond or costs. Requests for information will be made in a manner which assists the authority to respond readily and fully. Applicants will recognise they have a right to appeal. On appeal they will be able to show why they are dissatisfied and, where applicable, why it could be in the public interest to release the information. They will have confidence in the Scottish Information Commissioner as an independent decision taker on appeals.



The Scottish Information Commissioner should be seen as the authoritative source of advice and action by the public and authorities when it comes to understanding freedom of information and ensuring compliance. We will maintain, develop and promote briefings which aim to assist authorities to establish the correct response to requests. We will highlight precedent setting aspects of key decisions. Our plain English guidance benefits applicants when making requests for information and for review. We will help applicants avoid making technically invalid appeals. Our guidance will also help people to understand why information may have been properly withheld.

We will be mindful that the usefulness of information requested often erodes through time. We will aim to deal with appeals within 6 months on average with a significant majority within 4 months. In dealing with appeals we will aim to secure, at the first instance, all necessary information from authorities and applicants to come to a decision. In the light of experience, where a certain outcome is highly likely, we will indicate this to the applicant or authority inviting them to provide the information or withdraw the appeal as appropriate without issuing a formal decision.

We will commit more resources to promoting FOISA and the EIRs. We will work with others to improve the practical application of the legislation and to improve efficiency. We will actively promote initiatives to improve good practice by authorities- where we identify failings within specific authorities we will proactively seek to remedy these using practice recommendations if appropriate. We also perform regulatory checks of compliance outside the function of case specific investigations. We will keep abreast of good practice internationally and contribute the Scottish experience and successes in dialogue with other nations.

The Key Strategic Themes

The vision can be expressed as 6 themed areas of strategic endeavour, which will drive the individual annual operational plans for the next four years.

- **Case closure**
Investigative capacity will be used to significantly reduce the journey time to closure. Although applications have levelled out (projected at c400 in 08/09) they are expected to upturn in the period- and significantly so if new public bodies are designated.
- **Compliance**
Resources will be dedicated to investigate the practice of public authorities and to identify measures to improve compliance with the Act and Codes of Practice
- **Awareness**
Specific sectors of society will be targeted to ensure that they are aware of their rights and the potential use of FOISA/EIRs.
- **Practice**
Build knowledge of and promote good practice by authorities and applicants through research, publication scheme approval and a reference group of key specialists.
- **Development**
Beneficial changes to legislation, regulation and codes will be identified e.g., designation of additional authorities. We will address areas of uncertainty regarding the application of the legislation
- **Reference**
Publish detailed reference material bringing together our experience and approach in publications, drawing upon our interpretation of law, international comparisons, platform decisions, legal advice, Court cases, and evidence of good and bad practice.



Strategic Plan Aims

Investigations

We will:

- Speed up decisions on applications to the Scottish Information Commissioner;
- Eliminate/ prevent backlog of applications;
- Increase number of cases informally resolved;
- Increase number of cases determined within 6 months;
- Secure necessary information from the public authority at first request.

Compliance and good practice

We will:

- Reduce incidence of authorities submitting exemptions to the SIC which are not relied upon in responses to the applicant;
- Improve recognition of the scope and application of Environmental Information (Scotland) Regulations (EIRs) by public authorities;
- Investigate authorities' practice and issue practice recommendations where appropriate;
- Investigate compliance with FOISA in key sectors e.g. health, education;
- Approve publication schemes within a published timetable;
- Improve quality and content of publication schemes;
- Improve quality of requests to authorities by issuing guidance to applicants;
- Reduce the number of invalid applications to the Commissioner;
- Propose initiatives to improve the exchange between to authorities and media business interests.

Scope of FOISA

We will:

- Identify additional bodies to which FOISA should or could apply.

Operational performance

We will:

- Identify and mitigate risks to the functions of the Commissioner;
- Identify and introduce staff development opportunities;
- Ensure high levels of staff competency.

Information on the performance of the Commissioner against his strategic and operational plans is published in his 'Dashboard' which is available in the Commissioner's publication scheme: visit <http://www.itspublicknowledge.info/home/SICPublicationScheme/PSSearch.asp> and type 'dashboard' into the search box).

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