

Governance Arrangements

Scottish Information Commissioner



Scottish Information
Commissioner

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Glossary and abbreviations

Term used	Explanation
SIC, the Commissioner	Scottish Information Commissioner
FOISA	Freedom of Information (Scotland) Act 2002
SMT	Senior Management Team
SPCB	Scottish Parliamentary Corporate Body
The Scheme	Scheme of Internal Control
AAB, the Board	Advisory Audit Board

Introduction

Purpose

1. This document sets out the Scottish Information Commissioner's governance arrangements and the monitoring and reporting systems in place to ensure that they are delivering their strategic objectives and have an appropriate level of accountability and control.

Statutory Framework

2. The Scottish Information Commissioner (the SIC) is a public office holder appointed by Her Majesty the Queen on the nomination of the Scottish Parliament. The SIC is responsible for enforcing and promoting Scotland's freedom of information laws, namely:
 - (i) The Freedom of Information (Scotland) Act 2002 (FOISA)
 - (ii) The Environmental Information (Scotland) Regulations 2004
 - (iii) The INSPIRE (Scotland) Regulations 2009.
3. The SIC:
 - (i) Investigates applications and issues legally enforceable decisions
 - (ii) Promotes good practice amongst public authorities and
 - (iii) Provides the public with information on their rights.
4. Any function of the SIC may be exercised on their behalf by any person (whether or not a member of their staff) authorised by them to do so (and to the extent so authorised). The functions delegated by the SIC are set out in a separate Scheme of Delegation.

Staffing

5. FOISA states that the SIC may appoint such staff and on such terms and conditions as they may determine: this determination requires the approval of the Scottish Parliamentary Corporate Body (SPCB). The SIC and their staff are not to be regarded as servants or agents of the Crown or as having any status, immunity or privilege of the Crown; and the SIC's property is not to be regarded as property of, or property held on behalf of, the Crown.

Accountable Officer

6. Schedule 2 to FOISA requires the SPCB to designate the SIC or a member of their staff as Accountable Officer. The SIC is currently designated as the accountable officer, answerable to Parliament for the exercise of those functions. The function of Accountable Officer is a personal responsibility of the SIC.
7. As Accountable Officer, the SIC must:
 - (i) Sign the annual accounts of the SIC
 - (ii) Ensure the propriety and regularity of the finances of the SIC
 - (iii) Ensure that the resources of the SIC are used economically, efficiently and effectively.

8. The further specific duties of the Accountable Officer are set out in the *Memorandum to the Accountable Officer of the Office of the Scottish Information Commissioner from the Scottish Parliamentary Public Body*.

Accounts

9. The SIC must keep accounts and prepare annual accounts in respect of each financial year in accordance with such directions as the Scottish Ministers may give that officer. The annual accounts form part of the Annual Report which is laid annually before Parliament as part of the SIC's statutory responsibilities.
10. The SIC must send a copy of the annual accounts to the Auditor General for Scotland for auditing. If requested by any person, the SIC must make available at any reasonable time, without charge, in printed or in electronic form, the audited accounts, so that they may be inspected by that person.

Scheme of Internal Control

Overview

11. The Scheme of Internal Control (the Scheme) is a series of policies and protocols through which the SIC can demonstrate that they are meeting their responsibilities as the SIC and accountable officer.
12. The Scheme, supported by a risk management policy and risk register, defines how the SIC will monitor and manage risk in respect of:
 - (i) Achievement of, and compliance with statutory obligations
 - (ii) Achievement of strategic and operational objectives
 - (iii) Establishment of, and compliance with effective financial controls
 - (iv) Achievement and reporting on efficient and effective operational performance, against stated standards of service and quality
 - (v) Development and safeguarding of the SIC's reputation and that of their staff
 - (vi) Effective asset management.
13. The key features of the Scheme are:
 - The SIC holds the role of Accountable Officer.
 - The SIC leads a Senior Management Team (SMT) with overall responsibility for the operation and development of the office supporting the SIC, the members of which have delegated authority to make decisions as set out in the SIC's Scheme of Delegation.
 - Day-to-day operational management is the responsibility of individual senior managers, their deputies and staff. The managers are responsible for delivering the business of office of SIC to achieve aims and objectives. They report on operational performance and issues to the Senior Management Team.
 - All decisions must be authorised in line with the Scheme of Delegation and approved policies and procedures.

- External scrutiny is provided by external auditors appointed by the Auditor General for Scotland, the SIC's Advisory Audit Board (AAB) and the internal audits carried out by the internal auditor (an external audit firm appointed by the SIC).

Monitoring of effectiveness

14. Effective implementation of the control measures in place will be monitored and managed through:
 - (i) Checking implementation and progress through regular reporting of achievement against the SIC's Strategic Plan, the Operational Plan, Project Register and Risk Register
 - (ii) Periodic review of the definition and appropriateness of measures and policies in place
 - (iii) Statements of assurance from delegated officers
 - (iv) Letter of assurance from the HOCS relating to the Internal Control Checklist confirming that these controls have been, and are, working well and that in their opinion there are no significant matters which would require to be raised specifically in the governance annual governance statement which the SIC has to complete.
 - (v) Assurance from external bodies such as the AAB, and internal & external auditors.
15. In addition to regular and periodic monitoring, the SIC, and/ or their Senior Management Team at the SIC's discretion and request, may conduct ad hoc reviews and checks of the implementation of control measures. The SIC may ask to consult any documents relating to the activities carried out by the organisation, and/ or the individuals responsible for the carrying out of those activities.

The Senior Management Team

Membership

16. The members of the Senior Management Team (SMT) are:
 - (i) The SIC, the chairing member
 - (ii) Head of Corporate Services (HOCS)
 - (iii) Head of Enforcement (HOE)
 - (iv) Head of Policy and Information (HOPI)

Purpose

17. The SMT is responsible for the development and operation of the functions supporting the SIC in the exercising of their duties and responsibilities.
18. The SMT is authorised to consider any matter connected with those functions, and to make decisions in line with the SIC's Scheme of Delegation.

SMT Meetings (SMTM) and Quarterly Senior Management Team Meeting (QSMTM)

Frequency

19. The SMT regularly meets once each month, and each quarter additional standing agenda items, as outlined in Governance Reporting Arrangements, are considered. There must not

be a gap of more than two months between meetings. (The SMT also meets more frequently, as called by the SIC, or, in their absence, by two or more members of the SMT.)

Attendance

20. Meetings will be attended by the SMT membership and a secretary appointed by the SIC.
21. In the absence of the SIC, the Head of Corporate Services acts as Chair. In the absence of both the SIC and HOCS, another member of the SMT will act as Chair. Members of the SMT may not send a deputy in their place, except where the deputy is formally covering the role or duties of a member of the SMT on long-term absence or where the post is vacant.
22. The SMT may also, with the agreement of the Chair, invite relevant staff/ external advisers to attend meetings for a specific purpose.

Agenda

23. Agendas, venue and the time of meetings will normally be circulated no later than five working days before the meeting. Supporting papers will be issued at the same time, as far as is possible. Papers cannot be submitted late, except in exceptional circumstances and with the permission of the Chair.
24. The SMT will follow a standard agenda based on the annual work programme, supplemented by any other matters agreed for inclusion by the Chair, as set out in **The Governance Reporting Arrangements**. This will ensure that over the course of a year the SIC and SMT report on, monitor, review and manage achievement of statutory functions and organisational objectives.

Minutes

25. The minutes of the SMT meetings will be taken by the FAM and circulated to all members of the SMT within five working days of the meeting. They will be formally agreed either by email or at the next SMT meeting whichever occurs first.
26. The Chair will sign the agreed minutes as a permanent record of the meeting and any decisions taken.

Publication

27. The agendas, the agreed minutes of SMT meetings and any related Committee reports will be published on the SIC's website, redacted as appropriate in line with data protection requirements or in line with exemptions that would apply to the withholding of information under freedom of information legislation.

Audit

External

28. The SIC's annual accounts will be audited by an external auditor appointed by the Auditor General for Scotland.

Internal

29. The SIC will make arrangements for internal audit of functions and systems annually as set out in the Internal Audit Plan.

Complaints

30. Complaints about the service provided to applicants, public authorities or other service users will be dealt with in line with the published Complaints Handling Procedure, which adopts the principles set out in guidance produced by the Scottish Public Services Ombudsman.
31. The HOCS reports six-monthly on service complaints, identifying volumes, trends and actions for improvement/ development.

Governance

32. These governance arrangements cannot be amended without the approval of the SIC.
33. The SIC will notify the external Auditors and the AAB of any amendments made.
34. The SIC will review these governance arrangements annually and report the outcome of the review to the AAB.
35. These governance arrangements will be published as part of the SIC's publication scheme.

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