

# Scottish Information Commissioner Strategic Plan 2016-20

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**FOI: realising the benefits and supporting openness**

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Scottish Information  
Commissioner

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# Scottish Information Commissioner

## Strategic Plan 2016-20

### Commissioner's Introduction

1. This plan is laid before the Scottish Parliament by the Scottish Information Commissioner as required by section 46A of the Freedom of Information (Scotland) Act 2002.

### Role and Function

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2. The Scottish Information Commissioner (the Commissioner) enforces Scotland's freedom of information laws<sup>1</sup>. Her role is both proactive and reactive:

3. **Active** includes:

- (i) the statutory duty to inform the public of their rights to information
- (ii) promotion of good FOI practice

She does this, e.g., through stakeholder engagement, her Self-assessment Toolkit, giving of advice and guidance, seminars, workshops and roadshows, and sharing of good practice.

4. **Reactive** includes:

- (i) the statutory duty to consider, decide and enforce applications, irrespective of how many she gets. The Commissioner cannot refuse to decide an application unless it is settled and withdrawn, withdrawn for any other reason, abandoned, vexatious or frivolous
- (ii) review and approval of authorities' publication schemes. Authorities cannot meet their statutory duties if the Commissioner does not approve their publication schemes. She does this through her [Model Publication Scheme](#): notification, development and monitoring
- (iii) assessment of public authority FOI practice and intervention where poor practice comes to light. She does this through her [Enforcement Policy](#) and [Intervention Procedures](#).

5. The Commissioner is subject to the same requirements as other public sector bodies in relation to governance, efficiency and Freedom of Information. The Commissioner is funded through the Scottish Parliament Corporate Body (SPCB), but is independent of the Parliament and Government in the conduct of her statutory functions.

6. For more information go to our [website](#).

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<sup>1</sup> Freedom of Information (Scotland) Act 2002; Environmental Information (Scotland) Regulations 2004 and the INSPIRE (Scotland) Regulations 2009.

## Achievements against last plan – the highlights

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### 7. What we said we would do:

#### **Improve access to information through adding value.**

- (1) Enable and support Scottish public authorities to develop and maintain high standards of FOI policy and practice through a combination of regulation, advice and assistance, and appropriate collaboration.
- (2) Influence positively cultural change in Scottish public authorities' approaches to meeting their FOI duties.
- (3) Encourage effective and responsible use of FOI rights by a range of stakeholders through support, education and promotion.
- (4) Influence and support the development of Scottish information law and policy to ensure it remains fit for purpose and enables effective communication.
- (5) Be recognised as an organisation of accessible experts, that is run efficiently, governed effectively and leads by example.

### 8. Our approach is to deliver our functions in such a way that a single strand of activity contributes to the delivery of more than one strategic aim. For a full account of achievements since 2012, please read my [annual reports](#). Here is a flavour of what we have achieved:

- (i) *Enforcement*: for the three years from April 2012-March 2015 we received 1,646 applications and issued 784 Decisions. 65% of decisions found wholly or partially in favour of the applicant. We also resolved around 25% of applications without the need for a decision. We reviewed our case handling procedures. This included the introduction of Key Performance Indicators, and led to increased efficiency. The average time taken last year to handle an application was 3.18 months (down from 5.34 months in 2010/11). Nine decisions were appealed to the Court of Session in that time, and we successfully defended them all.
- (ii) *Proactive publication*: we rolled out and continue to monitor our Model Publication Scheme which has now been adopted by virtually all authorities required to have a publication scheme. We have also been proactive ourselves and made considerable progress on an overhaul of our website and the information we publish. In particular we updated the structure, look and feel of the website and updated our FOI briefings.
- (iii) *Stakeholder engagement*: for the three years from April 2012-March 2015 we responded to 5,539 enquiries. Up to April 2016 we delivered eight roadshows across Scotland advising, guiding, informing and promoting understanding of FOI rights and good FOI practice to a wide range of stakeholders. We spoke at, or hosted, conferences, including the University of Dundee's Centre for FOI annual practitioners' conference and Holyrood's annual FOI Conference. We surveyed authorities about learning and development to help us focus our activities more effectively. This is just a small part of our work with requesters and authorities to improve FOI practice and make it more efficient for everyone.
- (iv) *Awareness monitoring*: we monitor awareness of FOI through Ipsos MORI polling. The good news is awareness of FOI reached its highest ever at 84%. In 2015/16 we polled awareness of Environmental Information Regulations for the first time. That just 15% of those polled were definitely aware, and 12% think they have heard of, the EIRs has given us much to think about and informed our thinking for the next four years.

- (v) *Special reports*: we laid three special reports before Parliament, “Informing the Future”, “Failure to Respond to FOI Requests” and “FOI 10 Years on: are the right organisations covered?” Our reports highlighted success and shortcomings in specific areas of FOI and generated constructive and informative debate and action.
- (vi) *Review of FOISA*: we presented evidence during the passing of the Freedom of Information (Amendment) (Scotland) Act 2013, which, in our view, strengthened FOI in Scotland. This was supported by [briefing](#), published on our website.
- (vii) *Statistics Portal*: in 2013 our “statistics portal” went live. Each quarter, Scottish public authorities upload data about information requests to our portal and we publish it. This is a significant achievement for *all* public authorities as we are collectively developing a shared data resource that is available for research, benchmarking and trend analysis over time.
- (viii) *On-line application portal and blog*: for an organisation as small as ours, which has a specific remit, small steps can result in great leaps forward. We have recently gone live with our blog and the launch of our on-line application portal is imminent. Our aim with the on-line portal was to make it easier for those who want to do business digitally and to provide a better service all round by providing real-time advice and making our internal processes more efficient. Our blog is a key part of our [Communication Strategy](#).
- (ix) *International events*: we spoke at, or attended, FOI events across the globe, including Casablanca, Dubrovnik, Berlin, Potsdam, Santiago (Chile), Cork, Latin America and London. We also hosted visitors from China, Albania, Bermuda, the Isle of Man and Tunisia. There is a lot of interest in how we apply FOI in Scotland and it is an excellent reflection on all Scottish FOI practitioners that international colleagues seek out our views and experiences.
- (x) *Resources*: we achieved all of this and more with a 15% real-terms reduction in our 2010/11 budget by 2013/14.

9. If you are interested in finding out more, or would like to talk to me about the work of my office, please get in touch.



**Rosemary Agnew**  
**Scottish Information Commissioner**

08 March 2016

# The Strategy 2016-20

## Vision

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**Freedom of Information will add demonstrable value to public services and contribute positively to the transparency and accountability of public functions in Scotland**

## Strategic Aims

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10. To realise this vision

**The Commissioner's office will:**

1. support the on-going development of Scottish public sector culture and practice where the sharing and disclosing information is routine, and which actively serves openness, transparency and the public interest
2. help people to be familiar with their rights to access information and exercise them knowledgeably and responsibly
3. enable and support Scottish public authorities to develop and maintain high standards of FOI policy and practice. We will do this through a combination of regulation, advice and assistance, and appropriate collaboration. This includes promoting embedding FOI in good communication, excellent customer service, creation and management of records and in supporting efficient, equitable and accountable delivery of statutory functions
4. contribute positively to Scotland being respected as a world-leader in openness, transparency, and access to information law, policy and practice. Including supporting the development of Scottish access to information law to ensure it remains fit for purpose
5. be recognised as an organisation of accessible experts, that is run efficiently, governed effectively and leads by example in the delivery of its statutory functions. We will ensure that delivery of our functions meets and keeps pace with recognised standards and national public service improvements, and is delivered openly and transparently.

## Context

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11. The right to information is well established in Scotland, with high levels of public awareness of the right and how to use it.
12. Irrespective of that right, we are experiencing increasing demand for information about public services, and for information and data generated by delivery of public functions. Information (and data) is increasingly accessed and used in sophisticated ways not envisaged when FOI laws were first passed. The development of digital services, customer-centred services and recognition of the potential social and economic value of information mean there are more reasons than ever why people want and need access to it. It is no longer enough that

individuals ask for information to challenge and hold public services to account: society wants public services to make information proactively available without having to ask for it. There is also increasing awareness of the value of information in citizen participation in both the development and delivery of public sector policy and practice.

13. Access to information is also critical to [public sector reform](#) as it both supports public engagement and provides a tool with which to hold public services to account, across all four areas:
  - (i) *Prevention*: as an integral part of good governance, access to information can prevent misuse of public resources by building in openness by default
  - (ii) *Performance*: proactive publication enables public services to demonstrate how well they are performing and the improvements they make
  - (iii) *People*: making information available contributes to a culture of openness which enables public services to foster good relationships and supports collaborative working
  - (iv) *Partnership*: being open with information builds trust and confidence, essential for effective partnership working.
14. All of this at a time when resources to deliver services, including statutory FOI functions, are being squeezed and future resources are uncertain.
15. FOI faces particular challenges:
  - (i) it needs to integrate and keep pace with the transparency agenda, particularly in relation to the duties to publish information proactively
  - (ii) the benefits as well as the costs are not fully recognised. Public authorities need to understand what FOI contributes to all sectors of society as well as what it costs because the appetite for information is here to stay. The greatest benefits are realised when FOI is embraced and embedded effectively, and the greatest costs are incurred when openness is resisted
  - (iii) the scope of FOI law, in particular who is covered by FOI, is not keeping pace with changes to the delivery of public functions and rights are being eroded
  - (iv) FOI practice is not exploiting the opportunities presented by technological progress
  - (v) there is an increasing appetite for information to inform social analysis as well as challenge individual authorities and sectors. This is putting pressure on information resources and the way in which they are created, held and managed
  - (vi) the implementation of the new EU General Data Protection Regulation will impact on FOI legislation, how it is implemented in relation to personal data and the resources available to public authorities for their range of information and governance responsibilities.
16. If FOI is to contribute positively to Scotland, its place and purpose in all of these need to be explored, understood and developed. This means that as much effort and resource needs to go into the delivery of the Commissioner's "active" functions as in her "reactive" functions.

## Timetable and approach

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### Timetable

17. Each year the Commissioner publishes an [operational plan](#) setting out the organisation's planned activities, timetable for delivery, key targets and performance indicators, and how each activity supports the vision and strategic aims.

### Measuring outcomes

18. Targets are set and activity prioritised by balancing required outputs to meet statutory duties, desired quality, levels of risk and available resources.
19. Key performance indicators are based on statutory duties such as the requirement to report the number of decisions taking longer than four months, monitoring and promotion of FOI, approval of publication schemes and public sector governance requirements. They are published in the Commissioner's [Performance and Quality Framework](#), which is reviewed and republished each year with the operational plan.
20. Business as usual activities will continue to handle applications efficiently and effectively, taking a resolution-based approach where appropriate. Policies and procedures will be reviewed and updated to ensure that the efficiency and quality gains of recent years are maintained. They will also seek to ensure that rights are accessed and statutory duties are met.
21. Increasing emphasis will be put on developing good practice in relation to early intervention with public authorities, proactive publication and ensuring that the importance of FOI and proactive publication are understood and valued in the rapidly changing environment.
22. The Commissioner's office will also participate and lead by example in developments to harness technology, promote transparency and improve stakeholders' FOI experience.
23. Achievement against targets and plans will be reported annually in the Commissioner's [annual reports and accounts](#) laid before the Scottish Parliament, and [quarterly](#) on our website.

## Resources

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### Approach

24. We recognise that like the last four years, the next four years is going to be challenging for public services and that resources will be scarce. We will continue our approach of:
  - (i) Seeking core funding to enable us to deliver statutory functions to an acceptable standard and quality, and within the timescales expected of us in FOISA and other legislation. This is predicated on current volumes of applications and numbers of Scottish public authorities. We recognise we will be required to consider, and consult with the SPCB and others about, the impact of reductions in public sector spending during the period of this plan.
  - (ii) Seeking additional, discrete funding from the SPCB Contingency Fund for legal costs to defend appeals against decisions and for one-off high priority purchases such as replacement equipment, to meet health and safety requirements or to respond to unexpected events. We hold no contingency funding ourselves.

- (iii) Seeking contingency funding for specific projects or initiatives. Contingency funding requests will be based on sound business principles and will not impose additional requirements on our core funding. A good example in 2015/16 was funding to develop our on-line application portal. We will work in consultation with the SPCB to ensure that needs, priorities and funding requirements are brought to their attention, supported by sound business reasons, at the earliest feasible opportunity.

25. This strategic plan focuses on core funding requirements: the minimum we need to continue to meet statutory functions. While our activities will reduce the number of applications we receive in relation to current FOI use and application, they will also increase it as new authorities become subject to FOI, and promotion of FOI alerts under-represented groups to use FOI more. For this reason, we have assumed that there will be no net reduction in application volumes across the period of the plan.

## Core funding

26. On the assumption that the volume of applications remains steady. Resources required are:

	Baseline £	Indicative £	Indicative £	Indicative £
	2016-17	2017-18	2018-19	2019-20
<b>Total Staff Costs</b>	<b>1,231,200</b>	<b>1,262,000</b>	<b>1,293,600</b>	<b>1,326,200</b>
Staff Related Costs	15,500	15,700	16,000	16,200
Property Costs	104,500	105,100	105,700	106,300
Professional Fees	29,600	30,200	30,300	30,400
Running Costs	131,900	133,300	134,600	135,600
<b>Total Revenue Costs</b>	<b>1,512,700</b>	<b>1,546,300</b>	<b>1,580,200</b>	<b>1,614,700</b>
<b>Capital Expenditure</b>	<b>3,500</b>	<b>4,000</b>	<b>4,500</b>	<b>4,500</b>
<b>Total Capital &amp; Revenue</b>	<b>1,516,200</b>	<b>1,550,300</b>	<b>1,584,700</b>	<b>1,619,200</b>

27. Staff costs account for the majority of resources, and are also the least flexible. Increases are due to factoring in pay increases and modest increased costs e.g. for rates.
28. These figures do not include the impact of changes to legislation such as: implementation of the new EU General Data Protection Regulation (23% of our decisions involve the relationship between FOI and Data Protection), an increase in the number of public authorities through Section 4 and Section 5 orders<sup>2</sup> or primary legislation and new duties imposed collectively on public bodies (such as compliance with the British Sign Language (Scotland) Act 2015).

## Changes in volumes of applications

29. Historical figures show that over a four year period application numbers are more likely to rise than to fall. The rate and level of change is unpredictable.

### *Reduction*

30. If there is a reduction in any one year (such as occurred in 2014/15) resources will be diverted from reactive statutory duties such as handling of applications, to proactive activity

<sup>2</sup> Section 4 and Section 5 of the Freedom of Information (Scotland) Act 2002 which give Ministers powers to extend the scope of FOI to new authorities

aimed at improving practice and efficiency. This will enable vital skills and experience to be retained: essential as it takes many months for a new member of staff to be fully productive.

31. If there is a sustained reduction, the Commissioner will liaise directly with the SPCB about resource levels.

*Increase*

32. An increase in volumes of applications has a direct impact on our ability to meet statutory duties to the standard and within the timescales expected by FOISA. To maintain an acceptable level and quality of service when application volumes rise requires an increase in staffing levels.
33. Should there be significant volume increases, the SIC will liaise directly with the SPCB about resource levels, having first sought to identify meeting shortfalls through efficiencies. For example, a 10% increase in the volume of applications in 2017/18 would require an additional 2.7 FTE staff (one at grade 2 and 1.74 at grade 4). The impact of this on 2017-2020 would be a 6% increase on the indicative bid required simply to maintain current business:

	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>
Indicative requirement to meet 10% volume increase £	1,650,600	1,687,500	1,724,600
Baseline £ (as included in 2015/16 budget bid)	1,550,300	1,584,700	1,616,400
<b>Increase £</b>	<b>100,300</b>	<b>102,800</b>	<b>108,200</b>



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Laid before the Scottish Parliament by the Scottish Information Commissioner as required by section 46A of the Freedom of Information (Scotland) Act 2002. SG/2016/24