

Governance Arrangements

Scottish Information Commissioner



Scottish Information
Commissioner

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Glossary and abbreviations

Term used	Explanation
The Commissioner	Scottish Information Commissioner
FOISA	Freedom of Information (Scotland) Act 2002
Senior manager	Head of department
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 Commissioner) is a public office holder appointed by His Majesty the King on the nomination of the Scottish Parliament. The Commissioner is responsible for enforcing and promoting Scotland's freedom of information laws, including:
 - The Freedom of Information (Scotland) Act 2002 (FOISA)
 - The Environmental Information (Scotland) Regulations 2004
 - The INSPIRE (Scotland) Regulations 2009.
3. The Commissioner:
 - investigates applications and issues legally enforceable decisions
 - promotes good practice amongst public authorities and
 - provides the public with information on their rights.
4. Any function of the Commissioner 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 Commissioner are set out in a separate Scheme of Delegation.

Staffing

5. FOISA provides that the Commissioner may appoint such staff on such terms and conditions as they may determine and this determination requires the approval of the Scottish Parliamentary Corporate Body (SPCB). The Commissioner 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 Commissioner'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 Commissioner or a member of their staff as Accountable Officer. The Commissioner 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 Commissioner.
7. As Accountable Officer, the Commissioner must:
 - sign the annual accounts of the Commissioner
 - ensure the propriety and regularity of the finances of the Commissioner

- ensure that the resources of the Commissioner 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* which is published on the Commissioner's website.

Accounts

9. The Commissioner 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 Commissioner's statutory responsibilities.
10. The Commissioner must send a copy of the annual accounts to the Auditor General for Scotland for auditing. If requested by any person, the Commissioner 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 Commissioner can demonstrate that they are meeting their responsibilities as the Commissioner and Accountable Officer.
12. The Scheme, supported by a risk management policy and risk registers, set out how the Commissioner will monitor and manage risk in respect of:
- achievement of, and compliance with, statutory obligations
 - achievement of strategic and operational objectives
 - establishment of, and compliance with, effective financial controls
 - achievement and reporting on efficient and effective operational performance, against stated standards of service and quality
 - development and safeguarding of the Commissioner's reputation and that of their staff
 - effective asset management.
13. The key features of the Scheme are:
- the Commissioner holds the role of Accountable Officer.
 - the Commissioner leads a Senior Management Team (SMT) with overall responsibility for the operation and development of the office supporting the Commissioner, the members of which have delegated authority to make decisions as set out in the Commissioner's Scheme of Delegation and approved policies and procedures.
 - day-to-day operational management is the responsibility of individual senior managers (heads of department), their deputies and staff. The senior managers are responsible for delivering the functions and business of office of the Commissioner to achieve the

organisation's aims and objectives. The heads of department report on operational performance and issues to the SMT.

- 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 Commissioner's Advisory Audit Board (AAB) and the internal audits carried out by the internal auditor (generally, an external audit firm appointed by the Commissioner).

Monitoring of effectiveness

14. Effective implementation of the control measures in place will be monitored and managed through:

- checking implementation and progress through regular reporting of achievement against the Commissioner's Strategic Plan, the annual Operational Plan and risk registers
- periodic review of the definition and appropriateness of measures and policies in place
- statements of assurance from delegated officers (as set out in the Governance Reporting Arrangements)
- annual letter of assurance from the Head of Corporate Services (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 Commissioner's annual governance statement within the Annual Report
- assurance from external bodies such as the AAB and auditors, both internal and external.

15. In addition to regular and periodic monitoring, the Commissioner, and/ or their SMT at the Commissioner's discretion and request, may conduct ad hoc reviews and checks of the implementation of control measures. The Commissioner may 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:

- The Commissioner, the chairing member
- Head of Corporate Services (HOCS)
- Head of Enforcement (HOE)
- Head of Policy and Information (HOPI)

Purpose

17. The SMT is responsible for the development and operation of the functions supporting the Commissioner in the exercise 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 Commissioner's Scheme of Delegation and approved policies and procedures.

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

Frequency

19. The SMT regularly meets once each month and each quarter and considers agenda items as outlined in the Governance Reporting Arrangements. There must not be a gap of more than two months between meetings. (The SMT may also meet more frequently, as called by the Commissioner or, in their absence, by two or more members of the SMT.)

Attendance

20. Meetings will be attended by the SMT membership and the Finance and Administration (FAM) (as minute taker). The FAM may also attend the meetings to provide support to the HOCS in relation to the reports prepared and submitted as required by the Governance Reporting Arrangements.
21. In the absence of the Commissioner, the HOCS acts as Chair. In the absence of both the Commissioner 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 meetings may be held by telephone or video conference or in person.
23. The SMT may also, with the agreement of the Chair, invite relevant staff/ external advisers to attend meetings for a specific purpose.

Agenda

24. Agendas, venue and the time of meetings will normally be circulated no later than three working days before the meeting. Supporting papers will be issued at the same time, as far as is possible. Papers should not be submitted late, except in exceptional circumstances and with the permission of the Chair.
25. 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, over the course of a year, that the Commissioner and the SMT report on, monitor, review and manage achievement of statutory functions and organisational objectives.

Ad hoc events

26. It is recognised that, as a result of the impact of an ad hoc event affecting business continuity, for example, a pandemic, it may not be possible to submit all of the required reports and papers to the MSMTM or the QSMTM as required by the Governance Reporting Arrangements. If this is the case, an explanation as to why a report cannot be made should be provided by the senior manager concerned to the relevant MSMTM or QSMTM and the reason/s noted in the minutes of the meeting.

Minutes

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

Publication

29. The agendas, the agreed minutes of SMT meetings and any related Committee reports will be published on the Commissioner'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

30. The Commissioner's annual accounts will be audited by the Auditor General for Scotland or an external auditor appointed by the Auditor General for Scotland.

Internal

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

Complaints

32. 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.
33. The HOCS reports quarterly on service complaints, identifying volumes, trends and actions for improvement/ development.

Governance

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

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