

Scottish Information Commissioner

Annual Report and Accounts 2023-24

The Next Chapter



Scottish Information
Commissioner

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Glossary and abbreviations

Term used	Explanation
AAB	Advisory Audit Board
ARA	Annual Report and Accounts
BAU	Business as usual
CHP	Complaints Handling Procedures
EIRs	The Environmental Information (Scotland) Regulations 2004
FOI	Freedom of information
FOI Act	The Freedom of Information (Scotland) Act 2002
GA	Governance Arrangements
GRA	Governance Reporting Arrangements
ICIC	International Conference of Information Commissioners
INSPIRE	The INSPIRE (Scotland) Regulations 2009
KPI	Key performance indicator, against which our performance in key areas is measured and assessed
MSMTM	Monthly Senior Management Team Meeting
P and QF	The Commissioner's Performance and Quality Framework 2021-22
PSRA	Public Services Reform (Scotland) Act 2010
QSMTM	Quarterly Senior Management Team Meeting
SMT	Senior Management Team
SPCB	Scottish Parliamentary Corporate Body
SPIF	Scottish Public Information Forum
UK GDPR	Regulation (EU) 2016/679 of the European Parliament and of the Council) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019

PERFORMANCE REPORT 2023-24

PERFORMANCE OVERVIEW

The Scottish Information Commissioner (the Commissioner) promotes and enforces the public's right to access the information held by Scottish public authorities.

This performance overview provides information about the Commissioner's organisation, its purpose, the key risks to the achievement of its objectives and how it has performed during 2023-24. The related detail on these matters is set out in the rest of the Annual Report.

Commissioner's statement

It is a great honour to have been appointed as the fourth Scottish Information Commissioner, taking over from Daren Fitzhenry halfway through this reporting period. Daren can take great pride in his contribution to Scotland's FOI journey as it approaches the 20th anniversary of the Act and I thank him for his custody of the commission that has passed to me.

My office, like many public authorities, is still dealing with disruptive effects of the pandemic and is also now seeing the natural turnover of long serving staff. I want therefore to start by acknowledging the dedication and commitment of all my staff in sustaining an active and effective Freedom of Information regime. They are driven by a strong public service ethos and a passionate belief in justice and transparency. I am immensely proud of them.

It would be remiss of me not to acknowledge the extraordinary contribution of Margaret Keyes, the previous Head of Enforcement (and for a while Acting Commissioner). Margaret retired in August 2023 concluding a career that saw her instrumental in the development of Freedom of Information law in Scotland and further afield.

This turnover of senior management and staff marks a new chapter in the organisation. Since my appointment I have seen 5 new members of staff recruited and they bring a refreshed energy and vigour.

The backlog of cases is my top priority and our new approach and procedures are delivering the improvements we hoped for. I am grateful to the Scottish Parliament's Corporate Body for their support in allowing me to add additional investigative resource into the suite of changes that have been introduced. On 1st January 2024, we tagged all 384 cases that were awaiting investigation as backlog cases. Specialist resource has been allocated to approach these cases in a different way while freeing investigators to deal with newly received cases immediately. Our case handling performance for new cases has dramatically improved whilst at the same time we have reduced the backlog, at the time of writing, by a third.

What makes this achievement even more impressive is the 12% increase in appeals my office have had to deal with in the last year. This aligns to the 26% increase in FOI requests across the country over the last 2 years (95,366 in the reporting year). Consequently, I expect my office's demand to rise by another 11% next year.

This surge in demand can in part attributed to my policy team who work tirelessly to support advise and promote access to information rights to the public and authorities. Their intervention work is a key driver for lifting standards in all sectors, but it remains a concern that as an unfunded area of my business I cannot give this crucial area of work the attention it needs. A cultural shift in approach to transparency is required across the country and funding this function will provide best value for all.

The organisation's performance has once again excelled in providing value for money. The Corporate Services Team are a critical function in supporting the frontend services and are very much part of the successes of the organisation. It remains a frustration though that the fixed costs of complying with statutory governance reporting absorbs so much time and resource of such a small organisation. I remain committed to reducing these through shared services and seeking regulatory reform.

I aspire to reforming our reporting mechanisms by increasing proactive publishing of live corporate data and information, pathfinding a way for other public authorities to review their own operating models and allowing both them and wider society to benefit from increased transparency and efficiency.

We approach this 20th anniversary of operation with a need for some revisions to the Act and my powers to reflect our digital age. Proactive publication in a digital world, the opportunities and threats of Artificial Intelligence and the proliferation of new information platforms needs considered and responded to.

The next chapter begins.

David Hamilton

Scottish Information Commissioner

Statutory background

The Commissioner's powers and duties are set out in Parts 3 and 4 of the Freedom of Information (Scotland) Act 2002 (FOI Act). This contains powers and duties to:

- enforce the FOI Act, the Environmental Information (Scotland) Regulations 2004 (the EIRs) and the Codes of Practice which may be issued under sections 60, 61 and 62 of the FOI Act and regulation 18 of the EIRs;
- provide guidance on the FOI Act and the EIRs to the public and promote the following of good practice by Scottish public authorities; and
- give advice to any person on these matters.

The Commissioner's statutory functions include:

- approving Scottish public authorities' publication schemes;
- investigating and deciding applications (appeals) and enforcing decisions in relation to authorities' handling of information requests;
- assessing, promoting and monitoring practice;
- giving advice and assistance about access to information under FOI legislation; and
- investigating and deciding complaints made under the INSPIRE (Scotland) Regulations 2009 involving refusal to grant full public access to a spatial data set or service.

The openness and transparency enabled by FOI are core values in the National Performance Framework. As such, FOI permeates through and actively contributes to the National Outcomes. The Commissioner's office also directly contributes to these outcomes in our work to increase awareness of and improve access to freedom of information. This helps enable empowered individuals and communities and responsive public services.

Organisational structure

The Commissioner has a team of 29 people. There are three departments, each with a Head of Department who reports directly to the Commissioner and each is supported by a team. The responsibilities of each Head of Department and their team are:

Corporate Services	Enforcement	Policy and Information
<ul style="list-style-type: none">• provides a range of corporate services (e.g. finance, HR, IT, records management)• the Head of Corporate Services provides assurance to the Commissioner as Accountable Officer*	<ul style="list-style-type: none">• investigates appeals made under FOI law, ensuring that authorities comply• the Head of Enforcement is in-house legal adviser to the Commissioner	<ul style="list-style-type: none">• carries out research and FOI policy development and delivers strategies to improve authorities' FOI practice and promote FOI rights to the public• the Head of Policy and Information has management responsibility for the website

* In the absence of the Head of Corporate Services, outstanding Management Assurance has been provided by the Corporate Services Manager.

The Senior Management Team (SMT) led by the Commissioner includes the three heads of the departments.

More information is available at: <https://www.foi.scot/commissioners-team> .

Financial performance

The Commissioner receives funding through the Scottish Parliamentary Corporate Body (SPCB) and the SPCB approves the Commissioner's annual budget. The Commissioner's financial performance is set out in full in the Accountability Report and Financial Statements which are published as part of the Annual Report 2023-24. In summary, for the year ended 31 March 2024:

- net operating costs totalled £2,119,000 (2022-23: £1,881,000) – including non-cash transactions totalling £72,000 (2022-23: £89,000).
- capital expenditure totalled £31,000 (2022-23: £21,000¹).
- excluding non-cash transactions, total net expenditure amounted to £2,076,000 (2022-23: £1,816,000²). Cash funding from the SPCB of £1,975,000 (2022-23: £1,843,000) was within the agreed cash budget for the financial year of £2,232,000 (2022-23: £1,940,000).

More information is available at: <https://www.foi.scot/governance-and-finance> .

¹ Excludes recognition of right to use assets accounted for in accordance with International Financial Reporting Standard (IFRS) 16, 2023-24: £Nil (2022-23: £932,000)

² Excludes recognition of right to use assets accounted for in accordance with International Financial Reporting Standards (IFRS) 16

Objectives and strategies

Strategic Plan 2020-24

The Strategic Plan 2020-24 sets out how the Commissioner proposes to perform his functions over this period. Through this plan, the Commissioner aims to increase public knowledge and understanding of the right to request and obtain information from Scottish public authorities, enabling people to use the right more effectively to obtain the information that matters to them.

VISION:

The impact of Freedom of Information is increased, being recognised and valued as the key enabler of openness and transparency of public functions in Scotland, enhancing people’s right to access the information that matters to them.

STRATEGIC OBJECTIVE 1: increase knowledge and understanding of FOI rights

STRATEGIC OBJECTIVE 2: enable and support high standards of FOI policy and practice

STRATEGIC OBJECTIVE 3: develop Scottish public sector culture and practice where the proactive disclosure of information is routine and valued

STRATEGIC OBJECTIVE 4: influence and support the development and strengthening of Scottish FOI law and practice

STRATEGIC OBJECTIVE 5: contribute to Scotland being respected as a world-leader in openness and transparency

STRATEGIC OBJECTIVE 6: be recognised as an organisation of independent and trusted experts that is run efficiently, governed effectively and is open and transparent

The 2020-24 Strategic Plan can be viewed at:

<https://www.foi.scot/strategic-and-operational-plans>

Operational Plan 2023-24

Each year, the Commissioner publishes an annual Operational Plan, which sets out the specific programme of activity we will deliver over the year, linked to the Strategic Plan, monitoring and publishing progress every two months. Each planned action is cross-referenced to the relevant strategic aims. The section on “Corporate Performance” below provides more detail about the Operational Plan 2023-24.

The Performance and Quality Framework 2023-24 (P and QF) is the performance management system against which we measured, reported on and achieved continuous improvement in the quality of our work and by which we monitored and reported on organisational outcomes. The P and QF is supported by internal systems to ensure we are able to identify and monitor how performance contributes to organisational outputs.

The Performance Analysis section provides commentary on our performance against Key Performance Indicators (KPIs) and the targets for 2023-24.

Operational Performance

As a large part of our operational output is demand driven, our operational performance has been impacted by the number, complexity and timing of appeals to us, combined with ongoing casework from previous reporting periods and insufficient investigative resource. We have procedures in place providing detailed guidance on the investigation of applications and have KPIs for these investigations.

Since his appointment in October 2023, the Commissioner's priority has been to tackle the backlog of casework. He recruited more investigative resource from existing budget, sought additional contingency funding from the Scottish Parliamentary Corporate Body and implemented a revised enforcement model to improve operational performance.

Although still a significant challenge, these improvements to procedures, new enforcement team staff combined with new management information systems has put us in a good position to steadily reduce case numbers throughout 2024-25.

The Performance Analysis section provides commentary on operational performance in 2023-24.

Key issues and risks

The Commissioner has internal control systems which include embedded arrangements for identifying, assessing, addressing, reviewing and reporting on risk. These systems are integrated into management systems and closely linked to the business planning process. Further detail on the risk management and internal control system is provided in the Accountability Report.

Risk is actively managed and regularly reviewed through an appropriate and proportionate framework which covers both strategic and operational risks and which identifies the key risks facing the organisation. Operational risks are aligned to our strategic objectives and strategic risks and are assigned to an owner (SMT or head of department) who has responsibility for ensuring that the risk is managed and monitored appropriately.

During 2023-24, risks were regularly reviewed by the Commissioner and the SMT, and the Advisory Audit Board (AAB) carried out its annual review of the strategic risks. Nine strategic risks were identified which covered the following areas:

- the allocation and maintenance of sufficient resources to FOI
- challenges to the economy
- challenges to public sector funding
- the practice, governance and performance of the office of the Scottish Information Commissioner

We recognised that the highest operational risks related to:

- Appeal journey times – recognising that if case journey times are not within the standards or targets set, it is likely to undermine confidence in the enforcement process. We mitigated this risk by actively monitoring organisational targets, reviewing procedures, adopting a backlog specific strategy, actively monitoring and actioning resource requirements alongside keeping our stakeholders informed.
- having sufficient resources to enable us to carry out our regulatory role, including physical resources and maintaining operational output to take account of fluctuating volumes and number of cases – we mitigated this risk by enabling hybrid working and actively monitoring and managing the volume of cases, adjusting decision-making levels and updating procedures and recruiting new members of staff
- having secure and resilient IT systems and equipment – we mitigated this risk by updating IT security and management policies and ensuring appropriate cyber resilience measures were in place

The section in the Performance Analysis titled “Risk Management” provides a further explanation and more detail on the management of risk in 2023-24.

Performance summary

- We received 590 appeals in 2023-24. 85% of appeals were made under the FOI Act and the remainder under the EIRs.
- We carried out 296 interventions to support improvements in public authority FOI practice. While most were relatively straightforward 'non-compliance' notifications, we also carried out 68 interventions at level one and above.
- 79% of appeals to the Commissioner were made by members of the public (an increase from 2022-23).
- 32% of valid appeals were about an authority's failure to respond (23% in 2022-23).
- 70% of our decisions found wholly or partially in the requesters' favour (similar to 2022-23 (71%) and a significant increase on the 55% in 2021-22).
- 63% of cases were closed within 4 months, and the average closure time of all appeals was 7.38 months, an increase from 2022-23 as we resolve some of our oldest cases (5.4 months).
- We increased subscribers to our newsletter by 19% across 2023-24, reaching 873 subscribers by March 2024, and exceeding our 2020-2024 target of 800 subscribers by 9%.
- 94% of attendees at our Centre for FOI Practitioners' Conference, organised in partnership with Dundee Law School, reported that the event gave them a better understanding of FOI issues. 97% told us that they learned something that will help them in their job.
- 88% of respondents to our 2024 public awareness polling told us that they had heard of FOI – just short of our 2020-24 target of 90%. The data also found strong public support for FOI principles, with 97% agreeing that access to information was important, and only 6% of respondents – the lowest level since the question was first asked in 2011 – reporting that FOI was a waste of public money.
- We exceeded our 2024 target of increasing web traffic by 20%, with a 67% increase in users from May 2022 and a 35% increase in pageviews.
- We exceeded our target of a 1.5% engagement rate on twitter / X, with an average engagement rate across 2023-24 of 3.7%.
- We responded to 859 enquiries, the majority of which related to advice on making and responding to information requests and requests for review, and how to make an appeal to this office. All our enquiries KPIs were met.
- We received 117 information requests and 7 requests for review. A 139% increase in the number of information requests received in 2022/23.
- We received 16 right to access requests under data protection law and responded to all within the statutory timescale of one month.
- 7 complaints were received, down from 14 in 2022-23. We did not meet our KPI that fewer than 15% of complaints (1) be upheld in part or in full.
- 115 compliments were recorded, mainly relating to case handling and enquiries.
- There were no cases of suspected fraud.
- An approved Operational Plan 2023-24 was monitored every 2 months.
- Of the 44 governance reporting requirements, 41 were met in full, 1 was no longer required to be met and 2 were deferred pending a review of the assurance process.

- We complied with all of our statutory reporting requirements.
- We met our target of having a compliant publication scheme and Guide to Information and publishing as much information as possible.
- At 20.67 tonnes CO2e we were significantly below our annual target of 40.5 tonnes CO2e

PERFORMANCE ANALYSIS

Below we provide a detailed analysis of the Commissioner's performance during 2023-24 which details performance across the following key areas:

- **Enforcement performance**
Including information on our targeted interventions to improve public authority performance, the appeals we receive, our investigation of appeals, and our enforcement performance outcomes.
- **Policy and information performance**
Including information on our collection of public authority FOI statistics, our work to monitor and support public authority practice and our activity to raise awareness of FOI rights.
- **Corporate services performance**
Including information on our performance in relation to enquiries and information requests, our work to improve our environmental performance, our operational performance and our work to prevent fraud and corruption.

Enforcement Performance

Interventions

The Commissioner and his staff carry out interventions in cases where a Scottish public authority is failing to meet the requirement and standards set out in legislation and the Scottish Ministers' Codes of Practice.

Intervention levels

Level and Issue	Action
Non-compliance notification Minor failure to follow good practice	A member of the Commissioner's staff alerts the authority to the issue and <i>recommends</i> remedial action
Level 1 Failure to follow good practice	A member of the Commissioner's staff alerts the authority to the issue and <i>requires</i> remedial action
Level 2 Practice failure	A member of the Commissioner's staff raises the issue with the authority, initially at Chief Executive level or equivalent, and requires steps to be taken to resolve the issue and achieve a target outcome
Level 3 Serious systemic practice failure	A member of the Commissioner's Senior Management Team raises the issue with the authority's Chief Executive or equivalent, and requires a detailed action plan to be put in place to address the failure and achieve a required outcome
Level 4 Consistent, ongoing failure to comply with FOI law and guidance	The Commissioner uses statutory powers to address the problem, which may include practice recommendations or enforcement action

Intervention caseload

As with interventions data in previous annual reports, the following figures reflect all intervention activity in the year, rather than only those cases opened in the year. Therefore, it is possible for a single intervention case (Level 1-4) to be counted in more than one year. Each non-compliance notification is counted only once.

Intervention level	2021-22	2022-23	2023-24
Non-compliance notification	211	206	227
Level 1	37	12	59*
Level 2	7	7	8**
Level 3	1	1	2
Level 4	1	1	0
TOTAL	257	227	296

*26 of these interventions related to a failure to provide statistics

**5 level 2 interventions closed in 2023-24

With no dedicated resource to undertake intervention activity, this necessitated a continued focus of resources on appeal investigations. However, during 2023-24, we slightly increased our intervention activity, rising from 227 in 2022-23 to 296 in 2023-24. Much of this increase was a result of intervention activity undertaken to secure statistical submissions from a wide-range of Scottish public authorities.

Our non-compliance activity remains fairly consistent with previous years – this is where we notice practice failings during investigations or enquiries and we require the authority to take action to address the practice failing.

Some of the non-compliance notifications included:

- Requiring amendments were made to a local authority's online FOI request form to align with good practice and the removal of unnecessary fields
- Requiring a number of public authorities to update their template letters to ensure that the legal rights of appeal were stipulated
- Providing advice to a public authority on wording within its Guide to Information in relation to the differences in charging between FOISA and the EIRs.
- Ensuring that two public authorities were not seeking identification from potential requesters without valid basis.

More information is available at: <https://www.foi.scot/interventions-activity> .

Intervention cases

Level 2 Intervention: The Scottish Environment Protection Agency

In June 2021, following its cyber incident in December 2020, we opened a Level 2 Intervention with the Scottish Environmental Protection Agency (SEPA). The intervention's objectives are to improve SEPA's performance in responding to requests within the statutory timescales and supporting it to rebuild its Access to Information (ATI) regime. The Commissioner set a target of responding 80% of requests within statutory timeframes by December 2023, increasing this to 90% in 2024. SEPA achieved this target and continues to respond to over 90% of all requests within the required timeframe. With a starting point of 14% of all requests being responded to on time at the outset of this intervention, SEPA has worked hard to address the significant issues caused by the cyber incident and continues to work closely with the Commissioner to rebuild a sustainable ATI regime. If improvement remains sustained, it is likely that this intervention will close in 2024-25.

Level 2 Intervention: Comhairle nan Eilean Siar

In November 2023, Comhairle nan Eilean Siar contacted the Commissioner to notify him that it had suffered a significant cyber incident that was impacting its FOI function. Similar to SEPA, we opened a Level 2 intervention to support the Council rebuild its ATI regime. Having supported SEPA, we were able to put the Council in contact with SEPA to provide the Council with practical and effective advice to help it rebuild its ATI regime. We continued to support the Council at the time of writing.

Level 2 Intervention: Midlothian Council

We opened a Level 1 intervention in November 2021 in relation to the Council's poor performance in relation to responding to requests within the statutory time periods. Due to a failure to sufficiently demonstrate an improvement in performance, the intervention was escalated to Level 2 in October 2023. The Council was set with a target of responding to 85% of all requests within the statutory timeframe by 31 March 2024. At the time of writing (June 2024) the Council was responding to 97% of requests on time.

Level 2 Interventions: closed in 2023-24

Throughout 2023-24, we closed a number of level 2 interventions on the basis of sustained performance improvements. Failing to meet statutory timeframes formed the basis of all interventions closed in 2023-24. This included interventions with:

- Falkirk Council
- Highland Council
- NHS Highland
- NHS Western Isles
- Scottish Ambulance Service Board

Level 3 Intervention: The Scottish Ministers - Communications and Records

In February 2024 the Commissioner launched a new intervention to support improvement's in the Scottish Government's practice with regard to the use of informal communication tools such as WhatsApp, and associated issues relating to the recording, retention and identification of information.

The launch of this intervention was informed by the evidence and statements made during Module 2A of the UK Covid-19 Inquiry, which examined pandemic-related decision-making in Scotland. Elements of this evidence raised significant concerns in relation to the Scottish Government's compliance with FOI law with regard to the information created and stored using informal communication tools.

We have sought a range of information from the Scottish Minister's to inform our intervention activity, with a report from this intervention, along with any relevant recommendations, to be published in due course.

Level 3 intervention: The Scottish Ministers - Practice and Performance

In October 2023 we published a report which examined and assessed the Scottish Minister's progress in relation to our ongoing intervention to improve Scottish Government FOI performance and practice. This intervention, our longest-running, was launched in 2017.

The report examined the Scottish Government's FOI performance across two distinct periods of activity.

Between July 2022 and March 2023, we found a number of significant performance concerns. This included a deterioration in FOI on-time performance along with the build-up of a significant backlog of overdue cases. Concerns were raised as a matter of urgency with senior staff in the Scottish Government in May 2023. As a result, the Scottish Government initiated a programme of work to address both the backlog and wider performance issues.

The impact of this work was assessed in a second phase of assessment, and the results of both assessments were published in our October 2023 report. This second phase of assessment saw the rapid resolution of the historic backlog, and a significant improvement in on-time request performance, although the report noted the importance of ensuring these improvements were maintained, while also highlighting other areas where issues were outstanding, including standards of compliance with internal records management procedures and degree of FOI knowledge and experience of those involved in request-handling.

The October 2023 report therefore concluded that additional action was required to ensure that progress was sustained and outstanding issues addressed.

On receipt of this report, the Scottish Government developed a detailed Action Plan, designed to support performance improvements. This Action Plan includes measures to deliver improvements in FOI management, FOI reporting, staff awareness and training and record-keeping,

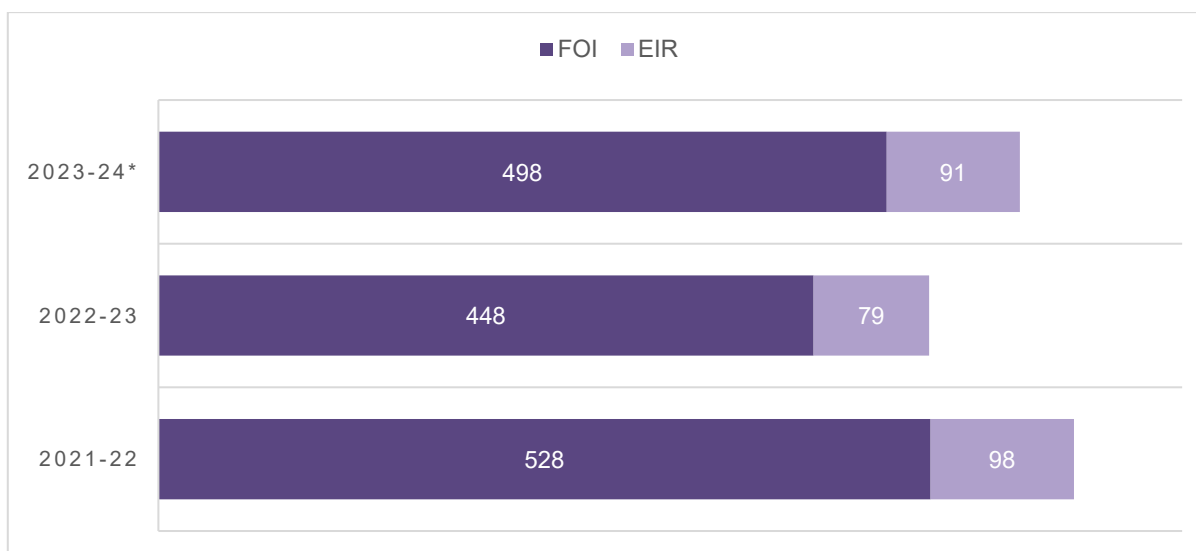
Throughout 2023-24 improvements in compliance with FOI timescales have been sustained, with an average on-time compliance rate of 95% recorded across 2023-24, and no recurrence of a substantial request backlog.

Our staff continue to liaise with the Scottish Government as it implements its improvement activity, with a view to carrying out a further assessment in early 2025. Following this assessment, a decision will be taken on whether this intervention can now be concluded.

Appeals received

Anyone who is unhappy with an authority's response to an information request has an enforceable right of appeal to the Commissioner under FOI law.

Number of appeals received



* One appeal made under INSPIRE

Reason for appeals

	2021-22 (%) [*]	2022-23 (%) [*]	2023-24 (%) [*]
Information was withheld under an exemption	36%	31%	33%
Failure to respond (no response sent)	24%	27%	32%
“Not held” response disputed	16%	15%	12%
Request not responded to in full	10%	9%	10%
Request refused on grounds of excessive cost	3%	5%	2%
Request deemed “vexatious” or “manifestly unreasonable”	2%	4%	5%
Refusal to confirm or deny whether information was held	2%	4%	2%
Fee or charge disputed	2%	2%	2%
Request deemed “repeated”	1%	1%	0%
Request deemed “invalid”	1%	1%	1%
Publication scheme concern	1%	1%	1%
Inadequate advice and assistance from authority	0%	1%	1%

*Percentages are rounded to whole figures, so do not always total 100%

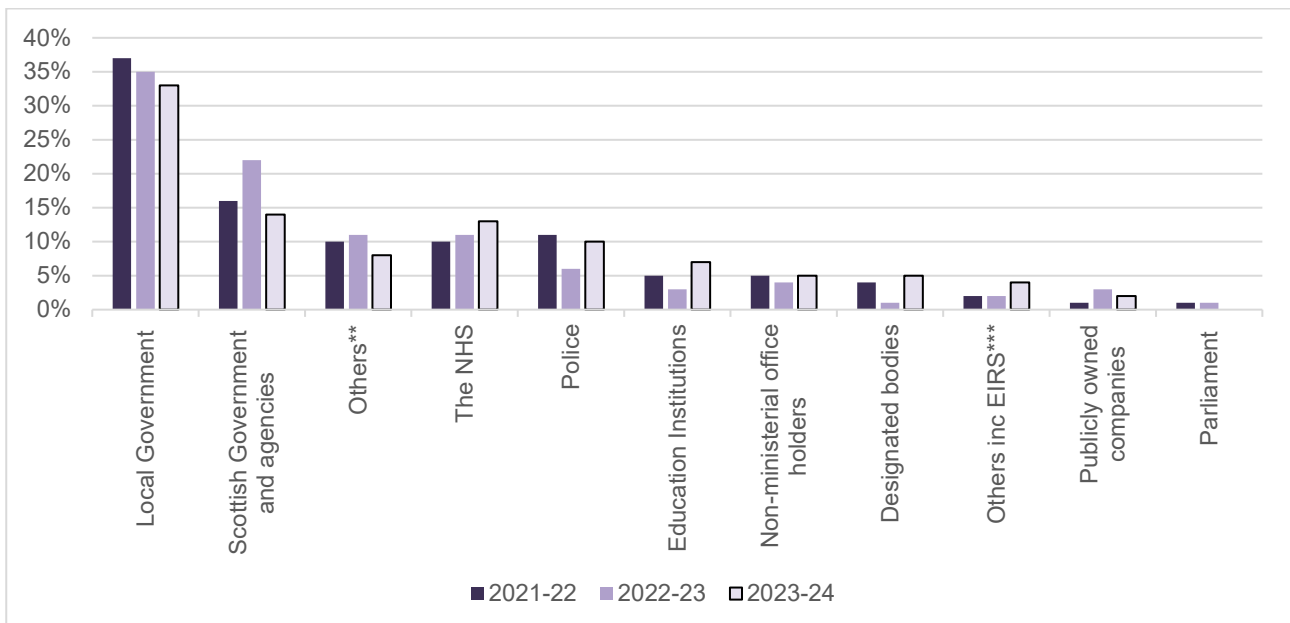
Who appeals?

	Top three applicant types
2021-22	<ul style="list-style-type: none"> Public and other (72%) Media (12%) Private/commercial enterprise (5%)
2022-23	<ul style="list-style-type: none"> Public and other (72%) Media (13%) Private/commercial (4%)
2023-24	<ul style="list-style-type: none"> Public and Other (79%) Media (7%) Private/commercial (5%)

The increase in appeals from general members of the public is particularly welcome as it shows a greater awareness and use of information rights (79%). This represented 466 of our appeals, the highest number received in a year from this category.

The Commissioner will continue to monitor media appeal volumes, but 7% is at the lower end of the 7-20% bracket in which it has fluctuated over the last decade.

Which authority types are the appeals about?*



*Percentages are rounded to whole figures, so do not always total 100%

** "Others" comprises all bodies listed as "Other" bodies in Part 7 of Schedule 1 to the FOI Act

*** "Other inc EIRs" comprises bodies which are subject to the EIRs only, and appeals received in relation to bodies which are not covered by either the FOI Act or the EIRs

Validation

The Commissioner can only investigate appeals that meet specific legal criteria. We refer to the process of checking these criteria as “validation”. Common reasons for appeals being invalid include the appeal not providing the legally required details (e.g. the full name of the requester), a request for review not being made or the timescales for appeals not being met.

Validity of appeals received

	2021-22	2022-23	2023-24
Total appeals received	626	527	590
Invalid appeals	183	157	226
Valid appeals	443	370	364
<i>Failure to respond appeals</i>	<i>81</i>	<i>85</i>	<i>80</i>
<i>Substantive appeals</i>	<i>362</i>	<i>285</i>	<i>284</i>

Assessing validity: our performance

Decision made on validity	Target (%)	Performance* (%)
1 month or less	70%	73% (met)
2 months or less	90%	91% (met)
3 months or less	97%	98% (met)

“Failure to respond” appeals

A Scottish public authority must provide a response promptly (as soon as possible) and within no more than 20 working days³. If an authority fails to respond to a request for review on time - or fails to respond at all - it has broken the law and requesters have a right to appeal to us.

The proportion of valid “failure to respond” appeals we received remains similar to 2022-23 (23%), with 22% of all valid appeals relating to the public authorities’ failure to respond. All “failure to respond” appeals are fast tracked, with 97% of all such appeals closed within four months of receipt. Timely responses to FOI requests are important for all parties: supporting both the prompt disclosure of information to the public and reducing the likelihood of FOI reviews, appeals or wider reputational damage for public authorities.

Investigations and enforcement action

Investigations

If a requester is dissatisfied with the way a Scottish public authority handled their request for review, they can appeal to the Commissioner. In all valid appeals (unless the appeal is frivolous, vexatious, withdrawn or abandoned), the Commissioner must investigate whether the authority complied with the law.

³ Response times for requests made under EIRs can be extended to 40 working days in limited circumstances, where the volume and complexity of the information make it impractical to comply with the 20 working day timeline (Regulation 7 of the EIRs).

Investigations over four months

The FOI Act requires the Commissioner to report the number of cases taking longer than four months. We aim to resolve the majority of our cases within this period, although more complex cases will often take longer. As discussed below, we continue to experience delays in the resolution of appeals, but we've made a number of changes to our procedures and have recruited additional resource which will have a significant impact on performance as we move through 2024-25.

More information is available at: <https://www.foi.scot/operational-performance>

	2021-22	2022-23	2023-24
Cases closed without investigation			
4 months or less	181	154	220
More than 4 months	4	4	2
Subtotal	185	158	222
Cases closed during investigation			
4 months or less	79	65	51
More than 4 months	68	56	65
Subtotal	147	121	116
Cases closed with decision			
4 months or less	24	41	31
More than 4 months	193	97	106
Subtotal	217	138	137
All cases			
Total 4 months or less	284	260	302
Total more than 4 months	265	157	173
Total cases closed	549	417	475

Case closure times

	Target (%)	Performance* (%)
“Failure to respond” appeals		
1.5 months	60%	70% (met)
4 months or less	100%	97% (not met)
Substantive appeals		
4 months or less	50%	10% (not met)
6 months or less	75%	12% (not met)
12 months or less	95%	25% (not met)
All appeals		
4 months or less	70%	63% (not met)
6 months or less	85%	65% (not met)
12 months or less	97%	70% (not met)

* Percentages have been rounded to the nearest whole number.

The average closure time of all appeals was 7.38 months (2022-23:5.39 months; 2021-22: 4.48 months). The increase in average age can be attributed to the closure of some of our oldest cases in 2023-24.

Similar to previous years, we started this year with an elevated caseload, this high carry-forward can be directly attributed to a high number of complex, inter-related appeals and a lack of adequate investigative resource in preceding years.

In particular, the practical and logistical issues of investigating 40 applications on various aspects of a single topic (the Guarantee and Reimbursement Agreement relating to the Lochaber Smelter entered into by the Scottish Ministers) has caused significant disruption.

Since January 2024, we have recruited an additional three investigating officers, with an additional two recruited for a temporary period of two years to help us work through our backlog of appeals.

In addition to the recruitment of new staff, we have also formulated a new strategy to address the backlog of appeals and the delays in appeal progression. Key changes include:

- the separation of our work into two distinct workstreams, with dedicated resource assigned to handling our backlog, while protecting the progression time for all new appeals from 1 January 2024
- review of our Investigation procedures to increase efficiencies
- delegation of case approvals for particular case types to avoid the creation of approval bottlenecks
- renewed focus on the resolution of appeals, wherever possible.

Although we continue to be impacted by the inertia of previous years' backlogs, we are confident that the addition of new staff and changes to our procedures will see significant improvements in case journey times in 2024-25.

Read more about the Commissioner's new approach to investigations here:

<https://www.foi.scot/commissioner-launches-new-approach-resolve-foi-appeals>

Appeals to the courts

The Commissioner's decisions can be appealed to the Court of Session on a point of law. No appeals were received in 2023-24. In 2022-23, one appeal was lodged against a decision of the Commissioner, by the Scottish Ministers. The hearing took place on 6 December 2023.

The Commissioner welcomed the Court of Session's decision that information relating to an investigation by James Hamilton into Nicola Sturgeon under the Ministerial Code was held by the Scottish Government for the purposes of the FOI Act.

Three previous appeals against decisions of the Commissioner were closed in 2023-24. In the first of these, which involved a decision from 2011, the appellant was unsuccessful in their attempt to appeal the decision to the UK Supreme Court. In the second of these, the appellant withdrew their appeal against a 2021 decision. A third appeal, from the same appellant, against a 2021 decision of the Commissioner has also been unsuccessful.

Enforcement performance outcomes

Appeal outcomes

There are three possible points at which appeals to the Commissioner can be closed:

- closure without investigation - for example, where the appeal is not valid
- closure during investigation - for example, where the matter is resolved to the satisfaction of the requester during the investigation
- the Commissioner issues a Decision Notice.

Reason for closure	2022-23	2022-23 (FOI Act)	2022-23 (EIRs)	2023-24	2023-24 (FOI Act)	2023-24 (EIRs)
Closed without investigation						
Premature or "out of time"	32	25	7	42	37	5
Withdrawn or abandoned	8	7	1	11	11	0
Resolved	0	0	0	1	1	0
Excluded – Lord Advocate or Procurator Fiscal (FOI Act only)	5	5	0	7	7	0
Format invalid	29	29	0	17	17	0
Body not subject to FOI	7	6	1	18	15	3
No request for review made	41	39	2	67	57	10
No request to public authority	5	5	0	12	11	1
Frivolous or vexatious	0	0	0	0	0	0
Other	31	28	3	47	42	5
Subtotal	158	144	14	222	198	24
Closed during investigation						
Withdrawn or abandoned	12	9	3	17	15	2
Resolved	109	87	22	99	85	14
Frivolous or vexatious	0	0	0	0	0	0
Subtotal	121	96	25	116	100	16
Closed with a Decision Notice						
For requester	66	56	10	56	45	11
For authority	40	37	3	41	33	8
Partially upheld	32	28	4	40	29	11
Subtotal	138	121	17	137	107	30

Commissioner's decisions

Anyone who is unhappy with an authority's response to an information request has an enforceable right of appeal to the Commissioner under FOI law.

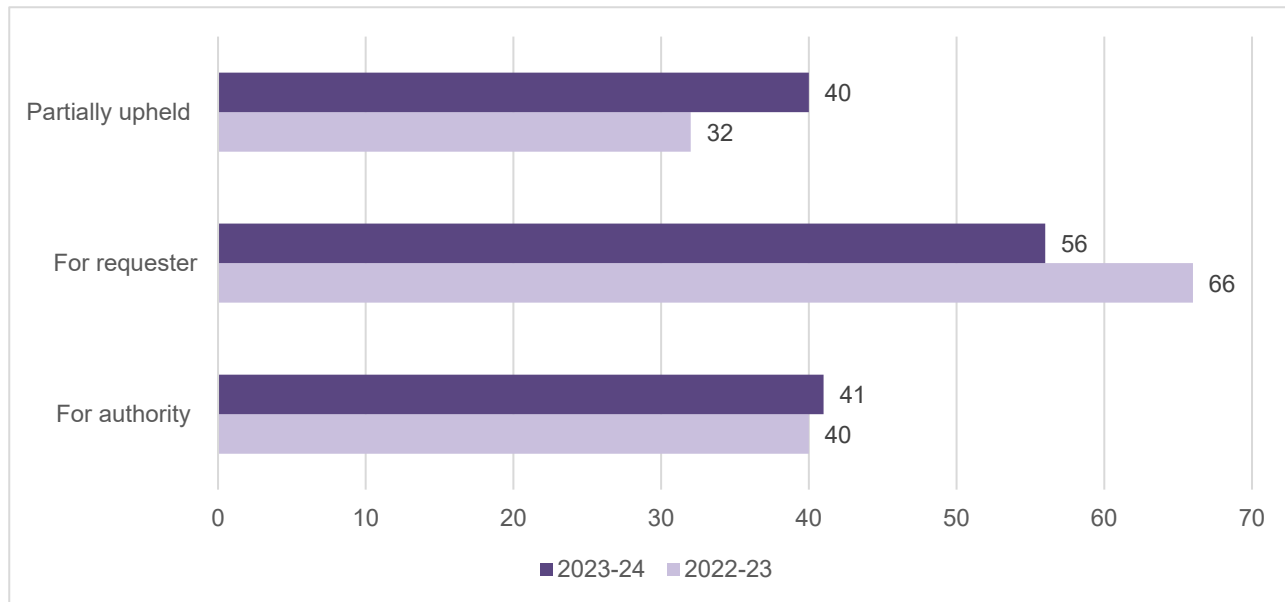
As ever, the appeals considered this year covered a wide range of high-profile topics, including:

- Fishing rights around the island of Rockall (Decision 97/2023)
- Transfer and housing of asylum seekers in Glasgow (Decision 093/2023)
- Timescales for Scotland joining the EU (Decision 065/2023)
- Incident Management Team response to the Nike conference outbreak of Covid-19 (Decision 055/2023)
- Whether Cromarty Firth Port Authority is subject to the EIRs (Decision 051/2023)
- Monies paid to Chair of Edinburgh Trams Inquiry (Decision 048/2023)
- Scientific evidence for the ongoing use of masks in NHS settings (Decision 017/2024)
- Crown consent for the Aquaculture and Fisheries (Scotland) Act 2013 and Regulatory Reform (Scotland) Act 2014 (Decision 028/2024)
- Operation Sandwood Report (Decision 030/2024)
- Electricity consumption from non-renewable sources in Scotland (Decision 035/2024)
- Contingency plans for a potential second wave of Covid-19 (Decision 039/2024)
- WhatsApp and text messages sent or received within a specified time period by Cabinet Secretaries or Government Ministers (Decision 045/2024)

These, and the other decisions issued in 2023-24, are available at: <https://www.foi.scot/decisions>

Outcome types

70% of our decisions found fully or partially in favour of the requester.



Further information on this area of performance can be found in the committee report considered by the SMT available at: <https://www.foi.scot/governance-and-finance>

Policy and Information Performance

Authorities' FOI statistics

Around 500 Scottish public authorities submit statistics every quarter, providing valuable information on the information requests they receive and the responses they issue.

The data submitted is published online, providing a valuable insight into how FOI is operating in Scotland. This data is also subject to detailed analysis by the Commissioner; examining trends at a national, sectoral and authority level, highlighting areas and issues for potential intervention action to support improvement, and informing our work to promote and enforce FOI law.

Data submitted for 2023-24 shows a substantial increase in requests across 2023-24, with a 13.6% increase on the previous year. The total number of reported requests of 95,361 was the highest reported volume of requests since we began collecting statistics eleven years ago (although, it should be noted, that both the number of organisations covered by FOI and the number of organisations whom we ask to supply statistical data has increased over that time).

The number and proportion of requests for environmental information made under the EIRs also rose in 2023-24, with both the total number of EIR requests (14,936) and the proportion of EIR requests (16%) both reaching their highest point since data was first collected in 2013-14.

The proportion of requests being responded to within the statutory timescale of 20-working days increased slightly over the last year, rising to 87% from 86% in 2022-23. This indicates that most Scottish public authorities are continuing to meet their statutory responsibility to respond on time in relation to most requests, despite the general increase in request volumes.

74% of all requests submitted resulted in the disclosure of some or all of the requested information, with more than half of requesters (51%) receiving everything they asked for. These figures rise further when cases where information was not held are discounted, to 84% (some or all information disclosed) and 59% (all information disclosed).

The proportion of cases where an internal review (the first appeal stage before a case can be brought to the Commissioner) was requested remained consistent at 3% of total requests. Fewer than 1% of requests (0.6%) went on to be appealed to the Commissioner, the same as last year, but with increased volumes accounts for the 12% increase in demand on my office.

Authorities' FOI statistics

	2021-22	2022-23	2023-24
Total requests	73,983	83,925	95,361
- FOI requests	64,469	73,212	80,425
- EIRs requests	9,514	10,713	14,936
- EIRs as a percentage of total requests	13%	13%	16%
Total responses on time	63,833	72,038	82,752
- responses on time as a percentage of total requests	86%	86%	87%
Total late responses	7,616	8,307	9,104
- late responses as a percentage of total requests	10%	10%	10%
Failures to respond	1,657	957*	1,463
- failures to respond as a percentage of total requests	2%	1%	2%
Response: full disclosure	38,702	44,126	49,065
Response: partial disclosure	15,488	18,748	21,171
- full/partial disclosure as a percentage of total requests	73%	75%	74%
Response: information withheld	7,045	6,589	8,370
Response: information not held	8,484	9,346	11,763
Refused: excessive cost, or manifestly unreasonable for cost reasons	2,030	2,611	2,933
- cost refusals as a percentage of total requests	3%	3%	3%
Refused: vexatious, repeated, or manifestly unreasonable for non-cost reasons	377	431	416
- vexatious/similar refusals as percentage of total requests	0.5%	0.5%	0.4%
Total review requests	2,292	2,421	2,551
- total review requests as a percentage of total requests	3%	3%	3%
Appeals to the Commissioner	626	527	590
- appeals as a percentage of total requests	0.8%	0.6%	0.6%
- appeals as a percentage of total review requests	27%	22%	23%

During 2024-25 we will be developing a new resource for the publication and communication of public authority FOI statistics, creating a more accessible, visual, usable and interactive tool to improve public awareness, understanding and engagement with this valuable dataset.

* Does not include Failure to Respond figures for Scottish Environment Protection Agency, subject to a Level 2 Intervention.

Monitoring and improving authority practice

The Commissioner provides practical support and learning tools to help authorities improve their FOI practice.

Communications, guidance and briefings to authorities

Communication tool	Description
Website	Our website continues to be our primary communication tool, sharing information, advice, guidance and support on FOI with the public, public authorities and other stakeholders. During 2023-24 we continued to develop the guidance available through our new website. Traffic on our website increased significantly across 2023-24, with a average user number rising by 27% between Quarters 1 and 2 and Quarters 3 and 4 of 2023-24, and average pageviews increasing by 26% over the same period. We also initiated work to rebrand our website and introduce a simpler, more user-friendly and accessible domain name : www.foi.scot . These changes were subsequently introduced across June and July 2024.
Newsletter	We issued 9 editions of Open Update, our email newsletter providing FOI news, advice and guidance to Scotland's FOI community. Through the newsletter we provided news and updates on FOI reform, shared examples of public authority learning and good practice, highlighted a new award scheme for FOI practitioners and shared learning and guidance from the Commissioner's decisions. We ended the year with 873 active subscribers to our newsletter, a 20% increase on the previous year.
Social media	We issued 177 posts on twitter / X across the year, providing our followers with updates on key developments, new resources, training events and FOI rights. Our following on twitter / X increased by 32% over the year, rising to 1,574 followers. We relaunched the Commissioner's channel on LinkedIn during the year and continue to support the FOI Scotland Forum on Knowledge Hub, a platform for FOI practitioners to share resources, learning and news. We aim to develop our activity across these and other appropriate channels across 2024-25.
Network meetings	We continue to support network meetings of staff from across the public sector, including groups of FOI practitioners from the health and local government sectors and staff from non-departmental public bodies and regulatory organisations. Typically, these meeting take place on a quarterly basis, and feature updates, learning, questions and discussion with sectoral FOI practitioners.
Events and conferences	We supported several conferences and events across the year. This included a FOI Practitioners' Conference organised by Dundee Law School's Centre for FOI, the annual Holyrood FOI Conference, and the eCase FOI Awards Conference, which this year took place in Manchester, and recognised good practice in FOI implementation across the UK. = We also participated in a series of free UK-wide training events for FOI staff, and delivered regular updates at the Scottish Public Information Forum (SPIF), which brings together a wide range of stakeholders to discuss the development of FOI in Scotland. Our staff also spoke at an event for UK housing associations on the experience of FOI designation for the sector in Scotland, to inform preparations for their own access to information regime.

Communication tool	Description
Surveys	We carried out polling of public awareness of FOI rights in March 2024, with the research report subsequently published in May. That report found strong levels of awareness of FOI, alongside strong public support for FOI key principles.
Interventions & enquiries	We provided one-to-one support, guidance and advice to public authority staff through our programme of interventions and our enquiries service.

More information:

Our website: www.foi.scot

News, comment and analysis: <https://www.foi.scot/news>

Briefings and guidance: <https://www.foi.scot/briefings-and-guidance>

Results from our public awareness survey: www.foi.scot/survey-finds-strong-public-support-foi

Public authority good practice workshop reports: www.foi.scot/holyrood-conference-2023-workshop-report

Open Update newsletter: <https://www.foi.scot/newsletter>

Twitter: [@FOIScotland](https://twitter.com/FOIScotland)

Publishing information and adoption of a publication scheme

The FOI Act requires authorities to publish information as well as respond to requests. This is called the “publication scheme” duty. They must make information accessible to the public without having to ask for it, and publish a “Guide to Information” to enable people to locate the information. The EIRs also carry a similar duty.

We continued to support newly-designated organisations across 2023-24 as they worked towards the adoption of our Model Publication Scheme and the development of their own Guide to Information. This included Scotrail Ltd and Caledonian Sleeper. Ongoing work is continuing to support the Scottish Pubs Code Adjudicator (following delays to the appointment of the Adjudicator) and Zero Waste Scotland. We also carried out interventions with authorities where we identified issues with publication scheme compliance.

More information on the publication scheme duty is available at: www.foi.scot/publication-schemes.

Raising awareness and improving access to FOI

The Commissioner has a statutory duty to promote freedom of information rights, ensuring people know they have rights and know how to use them to access the information they want to see.

Communications strategy

The Commissioner's 2021-2024 Communication and Engagement Framework supports the Commissioner's Strategic Plan 2020-2024, setting out a communication and engagement strategy to support the delivery of the objectives set out in the Strategic Plan.

The Commissioner's main communication tools are the website, social media, events and email communication.

Our 2021-2024 Framework has nine measures against which our performance is evaluated and reviewed. Performance in 2023-24 against these measures is set out in the table below.

A decision has been taken to extend the lifespan of the current framework by one additional year, during which an updated and refreshed framework will be developed to align with and support the Commissioner's new Strategic Plan.

2021-24 Performance Measure	Status	2023-24 performance against the measure
FOI awareness at 90% or above at FOI understanding at 75% or above, as measured by omnibus polling.	Ongoing	Our 2024 omnibus polling reported FOI awareness at 88%. Measurement of FOI 'understanding' was not captured in 2024. This decision was taken in response to concerns around the extent to which the question used accurately captured understanding of FOI rights. Alternative approaches to the capture of this data will be considered as the next iteration of the framework is developed. A range of work is planned for 2024-25 to further promote FOI rights, including activity marking the 20 th anniversary of FOI in Scotland, and work to promote FOI rights to children and young people
At least one successful campaign or initiative per year, increasing FOI awareness amongst those known to have lower levels of awareness / understanding, such as young people	Achieved	A number of awareness-raising initiatives were undertaken across the year, including a consultation workshop with Members of the Scottish Youth Parliament and supporting the development of a video on FOI rights for the Scottish gypsy / traveller community.
FOI practitioners reporting confidence in their FOI skills increases by 10% (from baseline to be captured with survey)	Ongoing	A baseline figure of 67% of practitioners reporting that they were 'confident' or 'very confident' they had the skills required to do their job was published in May 2023. A follow-up survey in March 2024 found that this figure remained static, at 67%. We will pilot online webinars to build skills and confidence in 2024-25.
Increase subscribers to newsletter (from 360 to 800)	Achieved	As of 31 March 2024, we had 873 active subscribers to our newsletter. Work continues to grow our subscriber base across 2024-25.

80% or more of participants in training, events or presentations given across each year report main learning goal set for the session achieved	Achieved	94% of attendees at the Centre for FOI Conference reported that the event gave them a better understanding of FOI issues, while 97% reported that they learned something to help them in their job.
90% or more of proactive news media engagement across each year results in top two key messages appearing in target publications	Not achieved	Proactive media engagement was undertaken in relation to three key activities during the year. We achieved our targets for two of these three engagements, resulting in a 66% success rate.
Increase users and pageviews on website by 20% from May 2022 baseline	Achieved	March 2024 saw a 67% increase in users and a 35% increase in pageviews from May 2022.
Average engagement rates of 1.5% and above for posts on social media	Achieved	Our average engagement rate across 2023-24 on twitter / X was 3.7%. This represents an increase from 3.3% in 2022-23 and 1.9% in 2021-22.
Average of 85% or more of targets set for views, engagement with or downloads of resources, reports and campaigns are met across each year	Achieved	Targets were set for four outputs across the year. The average of targets achieved across these outputs was 97%.

Accessibility

We want as many people as possible to use our website and find it easy to use. This involves continuous processes to improve Accessibility and comply with relevant Web Content Accessibility Guidelines (WCAG 2.22 AA currently).

From October 2023 through to February 2024, we made changes to our website and updated our Accessibility statement in response to an initial UK Government Digital Service (GDS) compliance test on 27 September 2023. We addressed the issues identified and made the necessary improvements by 31 January 2024.

In addition to the GDS compliance process, we asked a third-party provider to test out website in January 2024. We also have ongoing internal reviews on content at regular intervals for both content and website design (e.g. via our Key Document Processes and Records Management Plan).

We are always looking to improve the accessibility, both of our website and of the information we publish. If you have any queries or problems, please let us know by emailing us at enquiries@foi.scot

Civil society engagement

We undertook work to promote FOI rights to civil society groups in a number of ways across 2023-24. We continued our active support of the Scottish Public Information Forum across the year: a forum hosted by the Campaign for FOI in Scotland which brings together campaigners, requesters, authorities and regulators to explore issues relating to access to information in Scotland and beyond. Through these sessions we share updates on FOI and the work of the office, engage with key stakeholders and discuss and explore a wide range of issues relating to FOI law. We also support this forum through the commission of live transcription services to support the accessibility of the forum for as wide a range of participants as possible.

In December 2023 we hosted an FOI awareness-raising consultation workshop with Members of the Scottish Youth Parliament (MSYP), as part of the Scottish Youth Parliament's December sitting. The session focussed on a range of relevant issues and themes, introducing FOI rights to MSYPs, sharing examples of past FOI-use by former MSYPs and other young people, and examining potential barriers for young people to the use of FOI rights, and exploring how these may be overcome. We plan further work to promote FOI rights to children and young people across 2024-25.

We met with social housing tenants and their advocates in November 2023 to provide information, advice and guidance on how FOI rights can be used to access information from registered social landlords in Scotland. This event was organised in partnership with the Tenant Participation Advisory Service Scotland (TPAS Scotland).

In January 2024 we worked with the Minority Ethnic Carers of People Project (MECOPP) to support the production of a video infomercial promoting awareness of FOI rights to the gypsy / traveller community in Scotland. Scottish Information Commissioner David Hamilton was interviewed as part of the project, with the infomercial being subsequently launched in the Scottish Parliament.

We also hosted a workshop at the August 2023 Centre for FOI Practitioners' Conference, aimed at raising awareness within public authorities of the need to ensure that their FOI functions are as open and accessible as possible to individuals from under-represented groups, including the gypsy / traveller community. The session, which was designed and delivered in partnership with University College Cork's Traveller Equality and Justice Project, encourage public authorities to examine both public "entry-points" for access to information and the language used in FOI and related communications, in order to ensure that these are as clear, open, accessible and understandable as possible.

Finally, we also continued our active contribution to the work of Scotland's Open Government Partnership as a standing observer in the Steering Group.

Engagement with Scottish Parliament

Former Commissioner Daren Fitzhenry met with the Standards Committee in September 2023 to share his reflections on his time in office and his views on the need for FOI reform in August 2023, while Commissioner David Hamilton also gave evidence to this Committee in February 2024. Commissioner David Hamilton's evidence focussed on the work being done to address the backlog of FOI appeals in the Commissioner's office and speed up the appeals process, while also considering areas where FOI law was in urgent need of revision and reform.

Read the official report from the February evidence session at:

www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=15725 .

Consultation Responses

Consultations responded to across the year include the Scottish Government's consultation on the introduction of a Human Rights Bill for Scotland in October 2023, in which we stressed the importance of ensuring that the proposed legislation does not compromise or conflict with existing access to information rights and, in March 2024, the Scottish Parliament's consultation on Scotland's Commissioner landscape, in which we highlighted that there may be opportunities for the delivery of specific and limited "back office" functions to be shared between Commissioners.

Public awareness polling

Between 11 and 15 March 2024 fieldwork was undertaken for the latest round of our ongoing research measure public awareness of, and attitudes towards, FOI in Scotland.

The research (which was subsequently published in May 2024, found that public support for FOI rights and principles remains extremely strong. Survey respondents also supported the reform and strengthening of FOI law in certain key areas. The survey found that:

- 88% reported that they had heard of Scotland's FOI Act
- 97% agreed that it was important for the public to be able to access the information held by public bodies
- 83% felt that FOI helps to prevent bad practice in public bodies
- Only 6% felt that FOI was a waste of public money: the lowest proportion since this question was first asked in 2011.

The research also found that:

- 93% considered that FOI should be extended to cover publicly-funded health and social care services (including care homes)
- 94% felt that FOI should apply to bodies carrying out large building and maintenance projects on behalf of a public body
- 89% agreed that all organisations that provide public services under contract to a public body should fall within scope
- 79% felt that it should be a criminal offence for public bodies or their officials to try to subvert FOI legislation.

The full research report is available to read at: www.foi.scot/public-awareness-of-foi

Policy and legislation highlights

Consultations on FOI reform

During 2022-23 two consultations were carried out to capture views on the reform of Scotland's FOI laws. The Scottish Government consulted on a range of recommendations which were initially made by the Scottish Parliament, while Katy Clark MSP also consulted on a proposal for a Private Member's Bill.

Between them, the two consultations sought views on a wide range of proposals including:

- The extension of FOI to third party bodies delivering public services
- Reform of the FOI duty to publish information
- Review of the FOI Act's exemptions
- Technical amendments to ensure the FOI Act remains fit for purpose

Following a review of responses to its consultation, the Scottish Government concluded that, while not ruling out an FOI Amendment Bill in future, it is not currently persuaded that there is a need for primary legislation to amend FOI.

It proposed instead to consider how existing provisions can be used to ensure FOI remains up-to-date. This includes:

- Adopting a more structured and consistent approach to the use of its power to designate new bodies under FOI
- Consulting on the extension of FOI to cover 'third-party' providers of care services
- Revising and updating the FOI Act's Codes of Practice (which provide guidance for public bodies on meeting their FOI duties)
- Considering updates to Scotland's Fees Regulations.

The Commissioner is currently engaging with the Scottish Government on its review of the Section 60 Code of Practice.

A final proposal for a Private Member's Bill to reform FOI law was lodged in December. The Bill proposes to modernise FOI and extend designation to private and third sector bodies delivering public services.

We look forward to engaging with the development of this Bill as it progresses across 2024-25.

eCase FOI Awards

The Commissioner continued to support the eCase FOI Awards across 2023-24. The awards, which were launched in November 2022, took place for their second year and aim to recognise and celebrate FOI good practice across the UK.

In 2023-24 the awards sought nominations across four categories:

- Practitioner of the Year
- Team of the Year
- Rising Star
- Initiative of the Year

The Commissioner was one of the judges for the awards, alongside colleagues from the UK Information Commissioner's Office (ICO), the Information and Records Management Society, the UK and Scottish Campaigns for FOI and others.

Award-winners were announced at a free conference in Manchester in March 2024 - The Commissioner delivered a keynote address at the conference, while staff from our office also took part in panel discussions focussed on FOI good practice, environmental information requests, vexatious requests and the 'effective conduct of public affairs' exemption.

We were delighted to see good practice from Scotland recognised through the awards, with staff from the University of Edinburgh winning the Practitioner of the Year category, and the higher and further education support service HEFESTIS being highly commended in this category. The University of Edinburgh was also highly commended in the 'Initiative of the Year category.

We look forward to continuing our support for the eCase FOI Awards in 2024-25.

FOI tips from practitioners who have improved FOI performance -including one of Scotland's 2024 FOI Award winners -were shared in our workshop at the 2023 Holyrood Conference, and through an associated workshop report. The report, which also featured in the May 2024 Information and Records Management Society (IRMS) Bulletin is published at:

www.foi.scot/holyrood-conference-2023-workshop-report

International engagement

In June 2023 Commissioner Daren Fitzhenry attended the 15th annual International Conference of Information Commissioners in the Philippines. The Commissioner chaired a panel discussion at the event which focussed on opportunities for innovation in FOI law which had emerged from the experience of the pandemic.

We have also continued our strong working relations with colleagues in the UK Information Commissioner's Office (ICO), regularly sharing information and learning with ICO colleagues, and work jointly on specific objectives, including the eCase FOI Awards and various workshops and webinars. We look forward to continuing this work in 2023-24 with upcoming work including the development and delivery of a joint-FOI workshop at the ICO's annual conference.

In May one of our Deputy Heads of Enforcement attended an international case-handling workshop in Berlin, joining staff from 15 other regulators across Europe to share experience of FOI case-handling and best practice in securing FOI compliance.

Staff from the Commissioner's office also met with colleagues from the Office of the Information Commissioner (Ireland) across 2023-24, to discuss provisions in the Irish legislation that prevent a reliance of confidentiality clauses, and approaches to managing appeal backlogs.

Corporate Services Performance

Enquiries

The Commissioner has a power to give advice on the operation of FOI and uses this power to provide an enquiries service to the public and public authorities. Anyone with a question about FOI can contact us for advice. Most of our enquiries are from the public and this service is one of the main points of contact with us. Since FOI was introduced in 2005, we have answered almost 28,000 enquiries.

The numbers of enquiries received in 2023-24 as a whole, and in each quarter, with comparative figures for 2021-22 and 2022-23, are:

	2021-22	2022-23	2023-24
Q1	178	163	228
Q2	208	185	209
Q3	137	236	186
Q4	160	224	236
Total	683	808	859

In 2023-24, the majority of enquiries related to requests for advice on making and responding to information requests and requests for reviews, making appeals to this office and providing information on the referral of matters to the UK Information Commissioner's Office. This is very consistent with previous years.

Type of enquirer	%
Public and other ⁴	69%
Public authority ⁵	14%
Media	6%
Commercial / private enterprise	3%
Elected Representative	2%
Voluntary / campaign organisation	2%
Academic / student	1%
Categories <1%	3%

Response times

We recognise the importance of good performance and quality in the delivery of the enquiries service and met both enquiry KPIs that were in place for 2023-24.

One enquiry was open at the end of 2022-23 and responded to in 2023-24. Of the enquiries closed in 2023-24, 818 were responded to within five working days and 39 were responded to within 20

⁴ "Public and other" represents all individual members of the public with no identified affiliation to an organisation or group.

⁵ Includes prospective public authorities falling within the Commissioner's jurisdiction & UK public authorities.

working days and 3 responses took longer than 20 working days. There were no open enquiries at the end of 2023-24.

We were able to respond to 99.65% of enquiries within 20 working days

Performance measure 2023-24	Target (%)	Actual (%)
answered in 5 days	90%	95.12%
answered in 20 days	95%	99.65%

More detail on the Commissioner’s Enquiries performance in 2023-24 is set out in the committee report considered by the SMT on 30 April 2024, available at: <https://www.foi.scot/governance-and-finance> .

The Commissioner's FOI and subject access performance

As a Scottish public authority, we are subject to FOI law and must respond to the requests for information we receive. In 2023-24, we received 117 information requests (2022-23: 49) and 7 requests for review (2022-23: 0).

If we don't hold information, we will advise the requester and point them to where they might get it (if we know) or tell them about relevant information we do hold.

Requests for information

Received	2021-22	2022-23	2023-24
Brought forward from previous year	1	1	1
Requests received	72	49	117
- FOI requests	72	49	116
- EIRs requests	0	0	1
Request caseload	73	50	118
Closed	2021-22	2022-23	2023-24
Total requests closed	72	49	113
Information provided in full	13	4	26
Information partially supplied	19	8	15
Information not held	28	30	60
Information not supplied	12	7	12
- Clarification not provided	0	1	1
- Request withdrawn	3	2	1
- Exempt	5	3	5
- Neither confirm nor deny	0	0	0
- Repeated	0	0	2
- Excessive costs	0	0	1
- Information request invalid	2	0	0
- Vexatious	2	1	2
Fee charged	0	0	0
Requests open at end of year	1	1	5

Requests for review

Requests for review	2021-22	2022-23	2023-24
Brought forward from previous year	2	0	0
Review requests received	9	0	7
Review caseload	11	0	7
Closed	2021-22	2023-23	2023-24
Total reviews closed	11	0	7
Internal review upholds original decision in full	7	0	6

Internal review partially upholds original decision	2	0	0
Internal review substituted a different decision	0	0	0
Request for review invalid	1	0	1
Request for review withdrawn	1	0	0
Requests for review open at end of year	0	0	0

Response times

The 100% targets for responding to requests for information and requests for review are targets that we aim to meet at all times.

We did not meet our KPI target for responding to information requests this year. One request for information took 25 working days to respond to in Q3. In order to further mitigate the risk of the statutory response deadline being missed in future, our procedures have now been revised to include additional notifications being sent to line managers and the Deputy Heads of Enforcement highlighting any open cases reaching 15 working days.

Performance measure 2023-24	Target (%)	Actual (%)
% requests for information answered within 20 working days	100%	99%

We did meet our KPI targets for responding to review requests.

Performance measure 2023-24	Target (%)	Actual (%)
% review requests answered within 20 working days	100%	100%

More detail on the Commissioner's FOI performance in 2023-24 is set out in the committee report considered by the SMT on 30 April 2024, available at:

<https://www.foi.scot/governance-and-finance> .

Subject access

The data protection right of access, commonly referred to as subject access, gives individuals the right to obtain a copy of their personal data as well as other supplementary information. The Commissioner is also subject to data protection law and must respond to subject access requests. This helps individuals understand how and why we are using their data and also enables them to check that we are doing this lawfully. Requests are forwarded, on receipt, to the most appropriate member of staff for a response. We maintain a record of all subject access requests in our case management system.

In 2023-24, we received 16 subject access requests (2022-23: 24).

Response times

We have a target to meet 100% of subject access requests within a calendar month and this target was met in 2023-24.

More detail on the Commissioner's subject access performance in 2023-24 is set out in the committee report considered by the SMT on 30 April 2024, available at:

<https://www.foi.scot/governance-and-finance>

Service standards

Each financial year we review the way we have provided our service by looking at the compliments received and complaints made and the outcomes of those complaints.

Compliments recorded

In 2023-24, we recorded 115 compliments (2022-23: 85).

The majority of compliments came from applicants, enquirers and public authorities and thanked us for a number of aspects of our work, mainly helpful, professional assistance with appeals (at validation and investigation stage) and prompt, clear responses to enquiries.

There are no service standards or targets relating to compliments.

Complaints about our services

Our Complaint Handling Procedures (CHP) set out how we manage and respond to complaints and are based on the Model Complaint Handling Procedures published by the Scottish Public Services Ombudsman (SPSO). The CHP seek to resolve dissatisfaction about any aspect of our service as close as possible to the point at which the complaint arises and, where appropriate, to conduct a thorough, impartial and fair investigation of the complaint so an evidence-based decision on the facts of the case can be made.

In 2023-24:

- we received 7 complaints (2022-23: 14), the majority of which related to delays in deciding appeals.
- all complaints were either resolved at the frontline or investigated:
 - 4 complaints were closed at frontline Response (stage 1)
 - 3 complaints were closed following an investigation (stage 2)
- there were no complaint cases open at 31 March 2024.

Complaint KPIs

In 2023-24 one complaint at stage 1 took 7 days to close so our response time target was missed but all stage 2 complaints met the response time target.

6 complaints were upheld so we missed our target that less than 15% of complaints are upheld in part or full. The cases that were upheld all related to appeal delays.

Performance measure	Number	Target (%)	Actual (%)
Complaints closed	7		
Stage 1 Resolved at Frontline Response	4	100% resolved in 5 days	75% resolved in 5 days
Stage 2 Direct to Investigation or Escalated from	3	100% answered in 20 days	100% answered in 20 days

Frontline Response			
Complaints upheld in part or full	6	less than 15%	Not met – 88% of complaints upheld in part or full

Environment and sustainable development

The Commissioner aspires to attain high environmental standards, minimising the effects on the environment and where possible making a positive contribution to enhancing the environment. The aim is to continually improve our environmental performance, to protect the environment by reducing pollution and resource consumption and to operate in a manner that supports and encourages the natural diversity of plant and animal life. We have not identified any specific aim or risk relating to climate change. However, improving our environmental performance will contribute towards wider efforts to mitigate climate change.

Environment

The Commissioner's Environmental Policy details a number of objectives through which we aim to manage and, where possible, reduce any impacts on the environment that are due to our activities. Generally, we are committed to improving the environmental performance of our organisation, which involves protecting biodiversity, reducing pollution and carbon emissions.

We also continue to be committed to improving efficiency in how we function as an organisation and in how the office is managed and in 2023-2024 we:

- continued our hybrid working practices
- adopted a no-paper policy
- used telephone and video conferencing to replace in person face to face meetings
- encouraging low carbon transport methods wherever possible
- selected the most environmentally friendly products for cleaning where possible.

Our Environmental Policy can be found on our website - [EnvironmentalPolicy.pdf](#).

Sustainability

The Commissioner's primary function is to enforce and promote Scotland's freedom of information legislation. Promoting and increasing sustainability is a challenge as we are a small, single site organisation. However, our office can make a direct contribution to sustainability through the management of its carbon footprint. We remain committed to managing and, where possible, reducing further our carbon footprint and will continue to seek ways to do so.

The Commissioner's Statement on Sustainable Growth for 2023-24 has been published and can be found at: [2023-24 Statement Sustainable Growth.pdf](#).

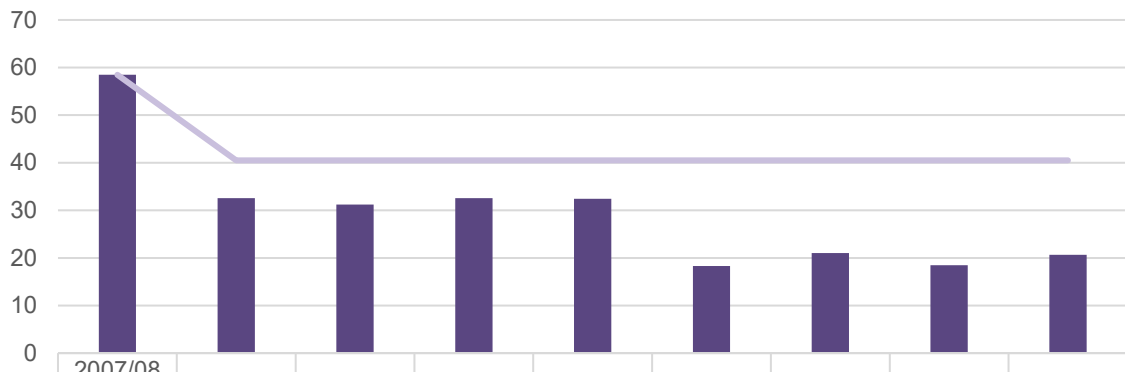
Carbon footprint

For 2023-24, the total organisation CO₂e is 20.67 tonnes (2022-23: 18.52 CO₂e tonnes) – this is significantly less than our annual target to be below 40.5 tonnes CO₂e and can be contributed to the following:

- There has been a 64.7% reduction in CO₂ emissions from the 2007/08 baseline.
- Emissions from energy consumption have stayed relatively the same from 2022-23. We continue to manage heating using a time controlled boiler control which is adjusted according to the current weather forecasts
- Business travel emissions have started to increase post COVID, as meetings and events are increasingly taking place in-person. We aim to travel by public transport as much as possible to ensure carbon emissions are as low as possible. As most of our

work is digital the need for paper has reduced. Moving forward we will be able to reduce the number of visits to the office premises for on-site shredding. This not only reduces the amount of waste paper we are sending for recycling but contributes to the reduction in emissions resulting from less shredding contractor travel.

Carbon Footprint 12 months to 31/3/2024



	2007/08 Baseline	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Actual	58.48	32.55	31.2	32.56	32.44	18.3	21.02	18.48	20.67
Target	58.48	40.5	40.5	40.5	40.5	40.5	40.5	40.5	40.5

Community, social and human rights

There is an established connection between the right to access to information and equality and human rights. People often use their FOI rights to access information to help them participate in social and community engagement, particularly with the public sector. Where they are dissatisfied with the response to an information request they may appeal the case to the Commissioner. We are committed to conducting our work to the highest standards and building positive relationships with communities across Scotland.

We monitor public awareness of the right to information and promote effective use of FOI rights to the public and civil society organisations. We regularly see social and community engagement issues in appeals and enquiries to our office.

Fraud and bribery

We are committed to preventing fraud and corruption in our organisation and have appropriate systems in place to maintain an anti-fraud culture. These systems include:

- assessing and reviewing the organisation's overall vulnerability to fraud and the specific areas which are most vulnerable
- developing and maintaining effective controls to prevent fraud
- ensuring that if fraud occurs a vigorous and prompt investigation will take place
- taking appropriate action in all cases, where justified
- recording and reporting all cases of fraud and bribery.

There have been no fraud or bribery cases in 2023-24 (0: 2022-23).

Payment to suppliers

We are committed to the Scottish Public Finance Manual (SPFM) requirements to ensure the prompt payment of invoices for goods and services and have KPIs which are in accordance with the SPFM requirements. Our KPIs require us to pay 95% of undisputed invoices within 10 days of receipt or fewer and 100% of undisputed invoices within 30 days or fewer and we met these in 2023-24.

Performance Measure	Target (%)	Actual (%)
Settled undisputed targets within 10 days	95%	99.44% (exceeded)
Settled undisputed invoices within 30 days	100%	100% (met)

Further information on this area of performance can be found in the committee report considered by the SMT on 31 May 2024, available at:

<https://www.foi.scot/governance-and-finance>.

Corporate performance

An operational plan is approved for each financial year and an Operational Plan (linked to the Strategic Plan 2020-24) was agreed for 2023-24 and published on our website. More information is available at: <https://www.foi.scot/strategic-and-operational-plans>.

The Operational Plan 2023-24 was set out as a programme of actions listed under types of operational activity, with cross references to the strategic aims supported by the action. The actions listed were business as usual (BAU) and projects.

In general, BAU was managed and monitored in line with set targets, performance indicators (as set out in the Performance and Quality Framework 2023-24, established reporting structures and approved policy). Projects were managed according to project management principles and practice, applied as appropriate.

The Operational Plan 2023-24 Monitoring Report was used as a working document to form the basis of on-going monitoring and progress against the plan (BAU and projects) was reviewed every two months by the SMT, updated and then published.

Governance

The Key Document C1 Governance Arrangements (GA) sets out the Commissioner's governance arrangements and monitoring and reporting systems that are in place to ensure that strategic objectives are delivered and that there is an appropriate level of accountability and control. More information is available on the Commissioner's website at: <https://www.foi.scot/governance-and-finance>.

Further information on the governance structures that are in place is also set out in the Accountability Report section of this ARA 2023-24.

Governance reporting

Governance Reporting Arrangements (GRA) include 44 reporting measures (more information is available at: <https://www.foi.scot/governance-and-finance>).

Risks

The Commissioner actively manages risk through an appropriate and proportionate framework which identifies, assesses, addresses, reviews and reports on risk, in the context of its risk appetite and environment.

In 2023-24:

- the Commissioner ensured that risk management was embedded into corporate decision-making processes so that the impact of policy decisions on risk was considered when a strategic or operationally significant decision was taken or policy or procedure approved
- the Commissioner was assured that risk was, and continued to be, managed effectively
- the risk profile of the organisation, that is the risks we faced, how the risks affected the achievement of objectives, how the risks were mitigated and how this affects future plans and performance, changed throughout the course of the year.
- the Commissioner defined strategic risks as those which relate to the organisation's ability to deliver long-term and strategic aims and which derive from the relationship with the external environment and legislative context

- the Commissioner defined operational risks as those relating to issues which impacted directly on day-to-day activity and which impacted on the operational delivery of the annual operational plan

In 2023-24, nine strategic risks were identified which covered the following areas:

- the allocation and maintenance of sufficient resources to FOI
- continued utility of, awareness of, and support for FOI
- challenges to the economy and public sector funding
- the practice, governance and performance of the office of the Scottish Information Commissioner.

When considering risks in 2023-24, the SMT identified main operational risks as being

- Appeal journey times – recognising that if case journey times are not within the standards or targets set, it is likely to undermine confidence in the enforcement process. We mitigated this risk by actively monitoring organisational targets, reviewing procedures, adopting a backlog specific strategy, actively monitoring and actioning resource requirements alongside keeping our stakeholders informed.
- having sufficient resources to enable us to carry out our regulatory role, including physical resources and maintaining operational output to take account of fluctuating volumes and number of cases – we mitigated this risk by enabling hybrid working and actively monitoring and managing the volume of cases, adjusting decision-making levels and updating procedures and recruiting new members of staff
- having secure and resilient IT systems and equipment – we mitigated this risk by updating IT security and management policies and ensuring appropriate cyber resilience measures were in place

On the appointment of a new Commissioner in October 2023, the journey time and resourcing risks were focused on the disconnect between human resourcing and demand. Previous mitigations had been managed by KPIs, Performance monitoring but the changes in Commissioner and Head of Enforcement had made it impractical to address these more fundamentally until the new incumbents were in post.

In November 2023, Project Blue was instigated by the SMT to quantify the backlog, design new processes and seek additional resourcing opportunities. This saw residual risk tumble as new measures were implemented

Other risks were focused on compliance with statutory legislative requirements eg Data Protection and also stakeholder management.

The section in the Performance Analysis titled “Risk Management” provides a further explanation and more detail on the management of risk in 2023-24.

Future plans and performance

Looking forward, the SMT have taken a refreshed approach to risk. Risk is tackled more aggressively and mitigated as quickly as possible.

A new set of Strategic Risks has been drawn out from environmental scanning and internal review. These are reviewed Quarterly.

A new living document approach has been introduced to embed operational risk into mainstream work. The new risk set complements the strategic risks and allow us to identify and mitigate much earlier. Risk Managers now use registers as a tool to support decision making rather than just a historical recording mechanism. This “living document” is reviewed and discussed at monthly SMTs.

Statutory reporting

In 2023-24 we complied with our statutory reporting duties by:

- laying our FOISA, Section 46(1) report on performance before the Scottish Parliament
- laying our Annual Report and Accounts 2023-24 before the Scottish Parliament
- publishing our report under the Prescribed Persons (Reports on Disclosures of Information) Regulations 2017
- publishing information on our website on specific expenditure areas under the Public Services Reform Act 2011 (PSRA).

The PSRA also requires the Commissioner to report on the measures taken to:

- improve efficiency, effectiveness and economy in the exercise of his functions – the work undertaken to meet these requirements is described throughout this report
- promote and increase sustainable growth – our statement on Sustainable Growth has been published.

More information is available at <https://www.foi.scot/governance-and-finance> .

The Nature Conservation (Scotland) Act 2004 places a statutory duty on all public sector bodies in Scotland to further the conservation of biodiversity and the Wildlife and Natural Environment (Scotland) Act 2011 introduced a requirement for all public bodies to make a report publicly available on their compliance with the biodiversity duty. Biodiversity duty reports are required every three years. Our Biodiversity Duty Report 2018-20 was published in March 2021 and can be found at. <https://www.foi.scot/governance-and-finance>

Information and records management

The Commissioner recognises and promotes good records management. The efficient and secure management of information is an ongoing priority. During 2023-24, we:

- managed records effectively in line with our Information and Records Management Policy and Information and Records Management Handbook
- updated our procedures and guidance to ensure that our data handling is compliant with the UK General Data Protection Regulation and the Data Protection Act 2018
- enhanced the security of our information
- met our target to maintain a compliant publication scheme and Guide to Information – we ensured that we published and made accessible as much information as possible and in

addition to the agendas and minutes of the SMT meetings we also published the committee reports (and related papers) where we did not need to withhold information on the basis of the relevant exemptions either in the FOI Act or the EIRs.

Re-use of public sector information

The Commissioner continues to comply with the Re-use of Public Sector Information Regulations 2015 by:

- publishing our public task statement
- publishing our re-use statement
- making all of the information published on the Commissioner's website subject to the Open Government Licence, which gives the right to re-use the information subject to conditions
- issuing guidance on how to make re-use requests and complaints
- publishing our information asset register.

We received no re-use requests in 2023-24.

David Hamilton, Accountable Officer

Date:

Scottish Information Commissioner

Accountability Report and Financial Statements 2023-24



Scottish Information
Commissioner

ACCOUNTABILITY REPORT 2023-24

For 2023-24, the Accountability Report includes the following sections:

Parliamentary Accountability and Audit Report – this explains how the Commissioner is accountable to the Scottish Parliament.

Corporate Governance Report – this explains the composition and organisation of the Commissioner’s governance structures and how they support the attainment of the Commissioner’s objectives.

This report contains the following:

- **Commissioner’s Report** – this provides information about the Commissioner and his Senior Management Team (SMT), staff information and data incidents in 2023-24
- **Statement of the Accountable Officer’s Responsibilities** – this gives details of the duties of the Accountable Officer and how these duties have been met in 2023-24
- **Governance Statement** – this explains the systems by which the organisation is directed and controlled, sets out the governance framework and includes details on the management of risk

Remuneration and Staff Report – this includes details of the remuneration and pension benefits of the Commissioner and the SMT and the staff report.

Parliamentary Accountability and Audit Report

1. The Commissioner is held to account by the Scottish Parliament (Parliament) through statutory arrangements put in place by the Freedom of Information (Scotland) Act 2002 (the FOI Act).
2. The Commissioner was appointed by His Majesty King Charles III, on the nomination of the Scottish Parliament, and the Scottish Parliamentary Corporate Body (SPCB) determines the Commissioner’s salary and the terms and conditions upon which they hold office. The SPCB approves the Commissioner’s annual budget.
3. The Commissioner must send a copy of the annual accounts to the Auditor General for Scotland for auditing. The Auditor General for Scotland has appointed Grant Thornton UK LLP to carry out the external audit on their behalf.
4. For each financial year,
 - the Commissioner’s audited Annual Report must be laid before Parliament within 9 months after the end of the reporting year, that is before 31 December 2024
 - the Commissioner’s general report on the exercise of the functions conferred on him under the FOI Act, must be laid before Parliament within 7 months after the end of the reporting year, that is before 31 October 2024.

Corporate Governance Report

Commissioner's Report

Background

5. Our financial statements have been prepared in accordance with the Freedom of Information (Scotland) Act 2002 (the FOI Act) Schedule 2, paragraph 5(1).
6. On 16 October 2023, David Hamilton took up his appointment as Commissioner, for a fixed term of six years, and is the designated Accountable Officer accountable to the Scottish Parliament for the finances of the Commissioner.
7. The Commissioner receives funding through the SPCB which has the power to approve the Commissioner's budget.

Senior Management Team

8. For the financial year ended 31 March 2024, the Commissioner's SMT comprised:
 - Daren Fitzhenry, Scottish Information Commissioner – to 15/10/23
 - David Hamilton, Scottish Information Commissioner – from 16/10/23
 - Helen Gardner-Swift, Head of Corporate Services
 - Margaret Keyse, Head of Enforcement – to 06/09/23
 - Euan McCulloch, Head of Enforcement – from 07/09/23
 - Claire Stephen, Head of Policy and Information

Register of interests

9. Declarations of Interest for the SMT are published on the website, in addition to their biographies, and are updated each year. Declarations of Interest of other staff are obtained and held when required.
10. The declarations of interest can be found in Class 1 at [Our Guide to Information | Scottish Information Commissioner \(foi.scot\)](#)

Personal data related incidents

11. Appropriate technical and organisational measures are in place to meet data protection and accountability requirements and to ensure that personal information is safeguarded including:
 - a comprehensive Data Protection Policy and Handbook
 - a data protection officer (DPO)
 - Privacy Notice
 - Information and Records Management Policy
 - Information and Records Management Handbook
12. Training on data protection and information security is included in the induction process for all new members of staff. All members of staff received refresher training and were provided with data protection and UK GDPR updates.

13. When working remotely, all members of staff are still bound by our requirements regarding the security of information and are required to adopt the same information security measures that they would take if working in the office premises.
14. An internal audit carried out in 2021-22 confirmed that the data procedures reflect good practice in a number of areas and did not identify any high-risk, significant or reportable weaknesses.
15. There were no significant personal data related incidents in 2023-24.

Provision of information to employees

16. We have adopted the principles of openness and participation in our organisation and place a high level of importance on both informing and consulting staff. We do so by routinely publishing minutes of meetings, providing access to management papers, through oral and written briefings and by staff meetings and events. Information is only withheld where the relevant exemption(s) in the FOI Act or the Environmental Information (Scotland) Regulations 2004 (EIRs) would apply if a request were to be made for the information or where a duty of confidence is owed to a third party.

Pension costs

17. The Principal Civil Service Pension Scheme (PCSPS) and the Civil Servant and Other Pension Scheme (CSOPS) – known as “alpha” – are unfunded multi-employer defined benefit schemes but the Scottish Information Commissioner is unable to identify its share of the underlying assets and liabilities. The scheme actuary valued the PCSPS as at 31 March 2020. You can find details in the [Scheme valuations - Civil Service Pension Scheme](#).
18. For 2023-24, employers’ contributions of £316,869 were payable to the PCSPS (2022-23 £253,641) at one of four rates in the range 26.6% to 30.3% of pensionable earnings, based on salary bands.
19. The Scheme Actuary reviews employer contributions usually every four years following a full scheme valuation. The contribution rates are set to meet the cost of the benefits accruing during 2023-24 to be paid when the member retires and not the benefits paid during this period to existing pensioners.
20. Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. For 2023-24, employers’ contributions of £8,973 (2022-23 £8,386) were paid to one or more of the panel of three appointed stakeholder pension providers. Employer contributions are age-related and ranged from 8% to 14.75%. Employers also match employee contributions up to 3% of pensionable earnings. In addition, employer contributions of £252.80 (2022-23 £236.27), 0.5% of pensionable pay, were payable to the PCSPS to cover the cost of the future provision of lump sum benefits on death in service or ill health retirement of these employees.
21. Contributions due to the partnership pension providers at the balance sheet date were £840.91 (2022-23 £793.31). Contributions prepaid at that date were £0.

Audit

22. The Commissioner’s financial statements are audited in accordance with paragraph 5(2) of Schedule 2 to the FOI Act by auditors appointed by the Auditor General for Scotland. Grant

Thornton UK LLP have been appointed as the Commissioner's auditors for a five-year period from 2022-23 to 2026-27 and have received no fees in relation to non-audit work.

Statement of Accountable Officer's Responsibilities

23. Under paragraph 5(1) of Schedule 2 to the FOI Act, the Commissioner is required to keep accounts and prepare annual financial statements in respect of each financial year, in accordance with the directions of the Scottish Ministers. The financial statements are prepared on an accruals basis and must give a true and fair view of the state of affairs and application of resources of the Commissioner and cash flows for the financial year.
24. In preparing the financial statements, the Accountable Officer is required to comply with the requirements of the Government Financial Reporting Manual (FReM) and in particular to:
 - observe the Accounts Direction including, the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
 - make judgements and estimates on a reasonable basis
 - state whether applicable accounting standards, as set out in the FReM, have been followed, and disclose and explain any material departures in the financial statements
 - prepare the financial statements on a going concern basis
 - confirm that the Annual Report and Accounts as a whole is a fair, balanced and understandable and take personal responsibility for the Annual Report and Accounts and the judgements required for determining that it is fair, balanced and understandable.
25. The SPCB has appointed me as Accountable Officer. The responsibilities of the Accountable Officer (including responsibility for the propriety and regularity of the public finances) for keeping proper records and for safeguarding the Scottish Information Commissioner's assets, are set in the Memorandum to the Accountable Officer of the Scottish Information Commissioner which was provided to me on my appointment.
26. As Accountable Officer, I have taken all steps that I ought to have taken to make myself aware of any relevant audit information and to establish that the Scottish Information Commissioner's auditor is aware of that information. So far as I am aware, there is no relevant audit information of which the auditor is unaware.
27. As Accountable Officer, I confirm the Annual Report and Financial Statements are, as a whole, fair, balanced and understandable and, also, that I am personally responsible for these documents and the judgements required in reaching that conclusion.

Governance Statement

Governance Framework: Scheme of Control

28. As Accountable Officer, I am responsible for maintaining a sound system of governance. Governance systems must ensure appropriate levels of internal control and support the achievement of the organisation's aims and objectives, while safeguarding assets and the funds approved by the SPCB for which I am responsible.
29. A scheme of control is in place, the key features of which are:
- The Commissioner holds the role of Accountable Officer.
 - The Commissioner leads a SMT whose membership is the Commissioner and the three Heads of Department and who have overall responsibility for the operation and development of the organisation (Corporate Services, Enforcement and Policy and Information). Each member of the SMT has delegated authority to make decisions as set out in the Commissioner's Scheme of Delegation. All decisions should be authorised in line with the Scheme of Delegation and approved policies and procedures.
 - Day-to-day operational management is the responsibility of the individual Heads of Department (HODs), their deputies and team members. The individual HODs are responsible for delivering the functions and business of office of the Commissioner to achieve the aims of the Strategic Plan 2020-24.
 - The SMT has formal meetings each quarter which focus on governance reporting and meets monthly to discuss operational matters and required additional items. The key document C1 Governance Reporting Arrangements sets out the matters to be considered at each of these meetings. The agendas, minutes and papers considered at the SMT meetings are published on our website at:
[Governance and finance | Scottish Information Commissioner \(foi.scot\)](#).
 - Information from the agendas, minutes and papers is only withheld where the relevant exemption(s) in the FOI Act or the EIRs would apply if a request were to be made for the information.
 - An Operational Plan is approved for each financial year which sets out how the Commissioner's vision and strategic objectives are to be realised in that year. Progress against the plan is regularly reviewed by the SMT which enables the monitoring of outcomes and the management of resources. The plan is laid out as a programme of actions listed under types of operational activity, with cross references to which strategic objective(s) each action supports and the HODs are accountable for their identified actions. The actions listed are a mixture of "business as usual" and one-off projects. Day-to-day operational management is the responsibility of individual HOD, their deputies and/or managers and their teams and the HODs report on operational performance and issues to the SMT.
 - The established and approved governance arrangements are set out in the key document C1 Governance Arrangements which, together with the supporting key document C1 Governance Reporting Arrangements, is published on the Commissioner's website at:
[Governance and finance | Scottish Information Commissioner \(foi.scot\)](#).

- External scrutiny is provided by
 - external auditors appointed by the Auditor General for Scotland
 - the Commissioner’s Advisory Audit Board (AAB) as set out in its purpose and objectives at:
[Governance and finance | Scottish Information Commissioner \(foi.scot\)](#).
 - internal audits provided by an external internal auditor or expert, when required and possible
 - other audits carried out by external experts and accreditations, for example, health and safety, Cyber Essentials and Cyber Essentials Plus
30. In 2021-22 an internal audit reviewed the effectiveness of our Governance and Risk Management arrangements and the internal auditor concluded:
- the Scottish Information Commissioner has effective and appropriate corporate governance and risk management processes in place
 - the governance arrangements are well documented and supported by policies and procedures reinforcing standards of behaviour, with performance monitored on an ongoing basis
 - there is also clear evidence of proactive risk management controls and practices.
 - there were no reportable weaknesses identified in the internal audit as regards:
 - roles, responsibilities and terms of reference
 - formal performance evaluation of key governance forums/ organisational performance
 - there is robust risk management policy
 - which has a defined, consistent and embedded approach for the accurate and timely identification and evaluation of risks related to achievement of business objectives
 - mitigating actions are identified to manage residual risk down to an acceptable level, in line with an agreed risk appetite/tolerance, with actions allocated and risk reported in line with agreed frequencies
31. The scheme of control is designed to manage rather than eliminate the risk of failure to achieve aims and objectives and, therefore, can provide only a reasonable and not an absolute assurance of effectiveness. Systems are in place and will continue to be developed to identify and evaluate risks and manage them efficiently, effectively, economically and proportionately.
32. The scheme of control has been in place for the year 2023-24 and up to the date of the approval of the annual report and accounts.

Scheme of Control - Review and assessment of effectiveness

33. As Accountable Officer, I am responsible for reviewing the effectiveness of the scheme of control. My review has been informed by:

- reports and comments made by the external auditors
 - the work of the SMT
 - checking implementation and progress through regular reporting of achievement against the Commissioner's Strategic Plan, the Operational Plan and risk registers
 - periodic review of the appropriateness of measures and policies in place
 - statements of assurance from delegated officers (as set out in the Governance Reporting Arrangements)
 - the strategic direction of the organisation
 - the advice of the AAB in relation to the Commissioner's governance arrangements
 - internal audit – two external reviews took place in 2023-24 relating to overall financial control and statistics collection.
34. Compliance with generally accepted best practice principles and relevant guidance on corporate governance has been assessed using an internal control checklist. The checklist is based on that provided within the Scottish Public Finance Manual (SPFM) and a proportionate approach has been adopted, reflecting the relatively small size and modest structure of the Commissioner's office whilst recognising the wide impact of the Commissioner's duties.
35. The internal control checklist and the statements of assurance provided by the HODs (as set out in the key document C1 Governance Reporting Arrangements) and the assurance on the compliance with governance reporting arrangements have confirmed that effective controls and systems are in place.

Governance Framework: Management of risk

36. The Commissioner actively manages risk through an appropriate and proportionate framework which identifies, assesses, addresses, reviews and reports on risk, in the context of its risk appetite and environment. The framework:
- enables the organisation to take informed decisions across all its functions
 - gives confidence to those that scrutinise the organisation in the robustness of corporate governance arrangements
 - embeds risk management in corporate decision-making processes to ensure that the impact of policy decisions on risk is considered each time a strategic or operationally significant decision is taken or policy and procedures are approved
 - provides for the maintenance and regular reviews and updating of the strategic and operational risk registers.
37. The SMT approves the Risk Management Policy which defines the organisation's risk appetite and articulates the organisation's risk tolerance. The Commissioner's risk appetite is set at two levels, reflecting the differing natures of the Commissioner's duties and powers. Statutory duties impose functions which must be carried out, or carried out in a particular way, or to achieve a particular outcome. Statutory powers give the ability to carry out functions but they are not prescriptive about approach or outcomes.

- **Statutory functions:** the risk appetite is cautious to open. This risk appetite is assessed using appropriate caution to ensure the Commissioner meets statutory requirements, but the aim is to push the boundaries to achieve an acceptable level of reward, particularly in relation to our interpretation of FOI legislation.
- **Statutory powers:** the risk appetite is open, that is, willing to consider all potential delivery options and choose the one that is most likely to result in successful delivery while also providing an acceptable level of reward (and value for money). In setting the risk appetite in this way, the Commissioner recognises that the appetite for some categories of risk will be more cautious or hungry depending on what they are and what type of impact they have.

38. The risk appetite helps the Commissioner to prioritise risk mitigations, and therefore, resources, on those risks outside of our agreed acceptable limits to actively monitor risk assessment and the use of target scoring within each of the risk registers ensure that the risk appetite is reflected in the register, supporting effective discussion when current scores are beyond the target or risk appetite and when risks are close or proximate.
39. The Commissioner's management of risk provides an ongoing system which identifies key risks and evaluates their potential impact on the achievement of strategic and operational objectives and the control measures in place or needed either to eliminate or mitigate the impact and/or reduce the likelihood of occurrence. Our systematic approach to risk ensures that there is a complete risk profile in place for each financial year. The evaluation of risk involves assessing its nature and extent so that effective and affordable control measures can be implemented.
40. The systems are designed to manage rather than eliminate the risk of failure to achieve the Commissioner's policies, aims and objectives and can only provide a reasonable and not absolute measure of effectiveness.

Risk appetite, tolerance, risk control and risk score

41. The [Risk Management Policy 2023-24](#) sets out how risk appetite, tolerance, control and scoring were managed within the Commissioner's risk framework.

Risk profile

42. In 2023-24, the risk profile of the organisation, that is the risks we faced, how the risks affected the achievement of objectives, how the risks were mitigated and how this affects future plans and performance, changed throughout the course of the year.
43. In 2023-24:
- the overall risk management process was reviewed by the SMT to ensure that it was appropriate and effective
 - the Risk Management Policy and strategic risks were reviewed by the AAB.
 - the Commissioner defined strategic risks as those which relate to the organisation's ability to deliver long-term and strategic aims and which derive from the relationship with the external environment and legislative context
 - a Strategic Risk Register was agreed and reviewed and updated by the SMT on a quarterly basis.

- the Commissioner defined operational risks as those relating to issues which impacted directly on day-to-day activity and which impacted on the operational delivery of the annual operational plan
 - a comprehensive Operational Risk Register was agreed and reviewed and updated by the SMT every two months.
 - individual risks were owned by Heads of Department
 - the risk assessment process took account of the cost, feasibility, probability, risk appetite and potential impact and action was planned and undertaken to address and mitigate risks.
44. The Performance Report Overview and Analysis sections explains the key risks, affecting performance, considered by the SMT in 2023– 24 see page 12.
45. The risk management systems have been in place for the year 2023-24 and up to the date of the approval of the annual report and accounts.

Review of effectiveness of risk management

46. As Accountable Officer, I have reviewed the risk management arrangements. My review has been informed by:
- reports and comments made by the external auditors
 - the internal audit which reviewed the effectiveness of the risk management arrangements and which concluded:
 - there are effective risk management processes in place
 - there was clear evidence of proactive risk management controls and practices.
 - the work of the SMT
 - the management of risk by the organisation
 - the strategic direction of the organisation
 - the advice of the AAB in relation to the Commissioner’s Risk Management Policy and strategic risks.
47. Compliance with generally accepted best practice principles and relevant guidance on risk management has been assessed using an internal control checklist. The checklist is based on that provided within the SPFM and a proportionate approach has been adopted, reflecting the relatively small size and modest structure of the Commissioner’s office whilst recognising the wide impact of the Commissioner’s duties.
48. The Risk Management Policy and the risk registers have been effective in enabling the SMT to manage the organisation’s risk profile and include target risks which inform priorities when formulating and carrying out the annual Operational Plan.
49. All matters requiring a formal decision by the SMT have included an assessment of the impact on risk. This, combined with the SMT’s active management of the risk registers and the implementation of the governance arrangements, has been effective in managing risk in decision making and planning practices.

Significant issues

50. During the financial year to 31 March 2024 and to the date of this statement, no significant control weaknesses or issues have arisen and no significant failures have arisen in the expected standards for good governance, risk management and internal control.
51. As Accountable Officer, I authorised the Financial Statements 2023-24 for issue on 30 September 2024.

David Hamilton, Accountable Officer

Date:

Remuneration and Staff Report

Remuneration Report

Remuneration⁶ policy

52. The Commissioner's remuneration is determined by the SPCB. The Commissioner's salary is reviewed on an annual basis.
53. The SMT remuneration is determined by the Commissioner subject to the approval of the SPCB.
54. In determining levels of remuneration, account is taken of the need for pay to be set at a level which will ensure the recruitment, retention and motivation of staff, together with the need to ensure affordability and value for money.
55. In practice, the terms and conditions of employment (including remuneration) of the SMT are modelled on those of the SPCB.

Service contracts

56. The SMT holds appointments which are open-ended. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.
57. The members of the SMT are not classified as civil servants but pension benefits are provided through the Civil Service pension arrangements.

Remuneration (including salary) and pension entitlements (audited)

58. The following sections provide details of the remuneration and pension interests of the Commissioner and the SMT. The information relating to salary⁷ and pension entitlements, fair pay disclosures and the analysis of staff numbers and costs are subject to audit.

Name and title	Salary: full year equivalent	
	2023-24 (£)	2022-23 (£)
Daren Fitzhenry Scottish Information Commissioner – to 15/10/23	55,353 ⁸	87,033
David Hamilton Scottish Information Commissioner – from 16/10/23	38,698 ³	-

⁶ Total remuneration does not include amounts which are a reimbursement of expenses directly incurred in the performance of an individual's duties; severance payments; employer pension contributions and the cash equivalent transfer value of pensions.

⁷ Salary and allowances cover both pensionable and non-pensionable amounts and includes but may not necessarily be confined to: gross salaries; overtime; recruitment and retention allowances or other allowances to the extent that they are subject to UK taxation and any severance or ex-gratia payments.

⁸ Salary does not include any accrual for holiday pay.

Single total figure of remuneration								
Name and title	Salary: full year equivalent		Pension benefits accrued during the year ⁹		Bonus Payment		Total	
	2023-24 £'000	2022-23 £'000	2023-24 £'000	2022-23 £'000	2023-24 £'000	2022-23 £'000	2023-24 £'000	2022-23 £'000
Daren Fitzhenry (to 15/10/23) ¹⁰ Scottish Information Commissioner	55-60	85-90	-	34	0	0	-	120-125
David Hamilton (from 16/10/23) ¹¹ Scottish Information Commissioner	35-40	-	-	-	0	-	-	-
Margaret Keyse (to 06/09/23) ¹² Head of Enforcement	40-45	75-80	-	0	0	0	-	75-80
Euan McCulloch (from 07/09/23) ¹³ Head of Enforcement	35-40	-	-	-	0	-	-	-
Helen Gardner-Swift Head of Corporate Services	75-80	75-80	-	30	0	0	-	105-110
Claire Stephen Head of Policy and Information	75-80	60-65	-	27	0	0	-	90-95

Accrued pension benefits for the Commissioner and SMT are not included in this table for 2023-24 due to an exceptional delay in the calculation of these figures following the application of the public service pension remedy¹⁴.

⁹ The value of pension benefits accrued during the year is calculated as (the real increase in pension multiplied by 20) plus (the real increase in any lump sum) less (contributions made by the individual). The real increases exclude increases due to inflation or any increase or decrease due to a transfer of pension rights.

¹⁰ 2023-24 full year equivalent salary £95,000 to £100,000

¹¹ 2023-24 full year equivalent salary £80,000 to £85,000

¹² 2023-24 full year equivalent salary £75,000 to £80,000

¹³ 2023-24 full year equivalent salary £65,000 to £70,000

¹⁴ [How the public service pensions remedy affects your pension - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/how-the-public-service-pensions-remedy-affects-your-pension)

Fair pay disclosure (audited)

59. Reporting bodies are required to disclose the relationship between the remuneration of the highest-paid director in their organisation and the lower quartile, median and upper quartile remuneration of the organisation's workforce (with prior year comparatives).
60. Total remuneration includes salary, non-consolidated performance related pay and benefits-in-kind. It does not include severance payments, employer pension contributions or the CETV of pensions

Fair Pay Disclosure	2023-24	2022-23
Staff remuneration	£26,413 - £79,672	£26,413 - £79,672
Commissioner remuneration ¹⁵	£80,000 - £85,000	£85,000 - £90,000
25th percentile remuneration	£42,000	£46,091
25th percentile pay ratio	2:1	1.9:1
Median remuneration	£50,079	£50,079
Median pay ratio	1.6:1	1.7:1
75th percentile remuneration	£52,583	£53,092
75th percentile pay ratio	1.6:1	1.6:1
Average Commissioner remuneration	£82,500	£87,500
% difference in average Commissioner remuneration	-6%	13%
Average staff remuneration	£48,987	£51,652
% difference in average staff remuneration	-5%	9%

61. In 2023-24 (2022-23 £NIL) no employee received remuneration in excess of the Commissioner and the median pay ratio for the relevant financial year is consistent with the pay, reward and progression policies for the entity's employees taken as a whole.
62. No benefits in kind¹⁶ were paid in either 2023-24 or 2022-23.
63. There were no bonus payments¹⁷ made in 2023-24 (2022-23 £NIL).

¹⁵ Salary does not include any accrual for holiday pay.

¹⁶ The monetary value of benefits in kind covers any benefits provided by the Scottish Information Commissioner and treated by HM Revenue and Customs as a taxable emolument.

¹⁷ Bonuses are generally based on performance levels attained and relate to the performance in the year in which they become payable to the individual.

Pension benefits (audited)

64.

	Total accrued pension at pension age as at 31 March 2024	Real increase in pension at pension age	CETV at 31 March 2024	CETV at 31 March 2023	Real increase in CETV as funded by employer
	£'000	£'000	£'000	£'000	£'000
Daren Fitzhenry (to 15/10/23) Scottish Information Commissioner	-	-	-	130	19
David Hamilton (from 16/10/23) Scottish Information Commissioner	-	-	-	-	-
Margaret Keyse (to 06/09/23) Head of Enforcement	-	-	-	652	-10
Euan McCulloch (from 07/09/23) Head of Enforcement	-	-	-	-	-
Helen Gardner-Swift Head of Corporate Services	-	-	-	136	20
Claire Stephen Head of Policy and Information	-	-	-	219	11

Accrued pension benefits for the Commissioner and SMT are not included in this table for 2023-24 due to an exceptional delay in the calculation of these figures following the application of the public service pension remedy¹⁸.

65. All the above are members of the Civil Service and Others Pension Scheme (CSOPS) or the Principal Civil Service Pension Scheme (PCSPS). Under these Schemes there is no automatic lump sum on retirement.

The Cash Equivalent Transfer Value (CETV)

66. A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which the disclosure applies.

¹⁸ [How the public service pensions remedy affects your pension - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/how-the-public-service-pensions-remedy-affects-your-pension)

67. The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost
68. CETVs are calculated in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

The real increase in CETV

69. This reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.
70. The following are covered by the audit opinion: single figure of remuneration, pension tables, fair pay disclosures, exit packages, staff costs and numbers and this information is set out in the tables on pages 63-67.

Staff Report

Staff numbers (audited)

71. The number of full time equivalent (FTE) persons employed by the Commissioner during the year was as follows¹⁹:

	2023-24			2022-23		
	Permanent	Temporary	Total	Permanent	Temporary	Total
	FTE No.	FTE No.	FTE No.	FTE No.	FTE No.	FTE No.
Commissioner	1	0	1	1	0	1
Senior Managers	3	0	3	3	0	3
Staff	23.9	0	23.9	19.6	0	19.6
TOTAL	27.9	0	27.9	23.6	0	23.6

¹⁹ Calculated as an average for the financial year

Staff costs (audited)

72. Staff costs

	Commissioner	Senior Management Team	Staff	TOTAL	TOTAL
	2023-24	2023-24	2023-24	2023-24	2022-23
	£'000	£'000	£'000	£'000	£'000
Salary ²⁰	96	244	905	1,245	1,086
Employer's NIC	12	29	96	137	122
Pension costs	28	66	251	345	280
TOTAL	136	339	1,252	1,727	1,488

Staff composition

73. Analysis by gender of the organisation as at 31 March 2024.

Category	2023-24			2022-23		
	Female	Male	Total	Female	Male	Total
Scottish Information Commissioner	0	1	1	0	1	1
Senior Managers	2	1	3	3	0	3
Staff (other than senior managers)	17	8	25	15	5	20
TOTAL	19	10	29	18	6	24

Temporary staff

74. As at 31 March 2024, all members of staff had a permanent employment contract and there was no member of staff on a temporary contract of employment.

Ill health absence data

75. Working hours and days per FTE and any changes in work patterns have been taken account of in the calculation of the statistics referred to below. Where sickness absence continued over a weekend/weekends, only working hours lost have been included.

76. For 2023-24:

- 454.95 days were lost to ill health absence – an increase of 147.11 days when compared to the previous year (2022-23 307.84). Attributable to long term absence of a small number of staff.
- the total days lost to ill health absence per FTE member of staff is 18.97, an increase of 3.2 days when compared to the previous year (2022-23 15.77)
- the total days lost to ill health absence per FTE member of staff is 13.27 days higher than the ONS benchmark of 5.70²¹ (2022-23 10.07)

²⁰ Salary includes basic salary adjusted for accrued holiday pay but does not include employee National Insurance or pensions contributions.

²¹ Office for National Statistics, [Sickness absence in the UK labour market 2022 edition](#)

Staff turnover

77. For 2023-24:

- 1 members of staff resigned
- 6 members of staff joined
- the staff turnover percentage was 4%
- no exit packages have been used

Human Resources Strategy and staff policies

78. The key document [C5 Human Resources Strategy](#) (HRS) sets out what the Commissioner aims to achieve with, and for, staff at all levels and, in doing so, provides a framework for the focus and setting of how the organisation manages human resources and supports the achievement of Human Resources (HR) governance objectives.

79. In 2023-24:

- HR continued to be managed in line with the HRS
- all members of staff were provided with wellbeing guidance and the Employee Assistance Programme (EAP) continued to be in place for any member of staff to contact at any time for advice
- recruitment for vacant posts was undertaken and our policies and procedures relating to no candidate receiving less favourable treatment on the grounds of a protected characteristic were followed.

Staff surveys

80. In 2023-24:

- staff were asked to complete a confidential equality and diversity monitoring survey. Completion of the survey was not compulsory and the return rate for the 2023-24 survey was 56% (2022-23 87%).

Temporary (non-payroll) staff and consultancy

81. For 2023-24, there were no temporary (non-payroll) staff (2022-23 NIL).

Reporting of off-payroll appointments

82. For 2023-24, there were no off-payroll appointments (2022-23 NIL)

83. For 2023-24, there was no expenditure on consultancy incurred relating to the provision of advice to management outside the “business-as-usual” environment.

Health, safety and wellbeing

84. There were no reportable health and safety incidents during 2023-24.

85. We published expenditure on consultancy on our website relating to the specific expenditure areas under the Public Services Reform Act 2011 (PSRA)²². In 2023-24, as regards consultancy services for employment and health and safety matters, the expenditure was:
- Worknest Employment Law Support Service: £6,704
 - Worknest Ad HOC HR Consultancy: £3,138
86. An employee assistance programme continued to be provided signposting staff to wellbeing guidance and access to confidential advice.

Staff relations

87. We recognise the importance of good staff relations and effective communication with staff. Quarterly all staff meetings and regular team meetings have taken place. All members of staff can access the agendas, papers and minutes of meetings of the SMT (information is only withheld from staff where the relevant exemption(s) in the FOI Act or the EIRs would apply if a request were to be made for the information or where a duty of confidence is owed to a third party).

Diversity and inclusion

88. In the work of the organisation, the Commissioner has due regard to the three aims of the public sector equality duty under the [Equality Act 2010](#) (the Act) which are:
- to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
 - to advance the equality of opportunity between people who share a protected characteristic and people who do not share it; and
 - to foster good relations between people who share a protected characteristic and people who do not share it.
89. The Commissioner must comply with the general requirements of the Act. However, the Commissioner is not included in the list of public authorities which are subject to the specific public sector equality duties set out in the Act. The Commissioner is also not listed as a public authority with a duty to report under the public sector specific equality duty²³ (see Schedule 19 of the Act).
90. A revised [Equality Policy](#) was approved by the SMT in October 2023. This policy covers any member of staff with a disability.
91. As part of the actions taken to ensure compliance with the general requirements of the Act, we collect and analyse staff data and then use the analysis to refine policies and practice where required.

²² More information is available at [Governance and finance | Scottish Information Commissioner \(foi.scot\)](#)

²³ [Schedule 19](#)

92. All committee reports or proposals submitted to the to SMT and project plans must include a section on the impact of the project or proposal on equalities and the protected characteristics.
93. All staff receive mandatory equalities and diversity training annually and training on equality and diversity was provided to managers and staff in 2023-24.
94. The Commissioner is committed to eliminating discrimination, valuing and promoting equality, diversity and inclusion among our workforce. The Commissioner is working to increase diversity, supporting flexible approaches to work and it is the Commissioner's policy to treat all job applicants and employees equitably regardless of age, disability, gender, gender reassignment status, marriage or civil partnership status, maternity or pregnancy, race, religion or belief or sexual orientation. The [C5 Recruitment and Selection Policy](#) and related [Procedures](#) contain relevant provisions relating to the treatment of an applicant who may have a disability.
95. Where appropriate, we have implemented reasonable adjustments to enable staff to fulfil their potential.

Learning and development

96. A Learning and Development Plan 2023-24 was in place and training was provided online and in-house using approved training providers and platforms.
97. Mandatory training in data protection and UK GDPR requirements was undertaken by all members of staff in November and December 2023.
98. Management training was also provided to line managers.
99. In 2023-24, we continued to support staff where possible through relevant training and development of skills.

David Hamilton, Accountable Officer

Date:

INDEPENDENT AUDITOR'S REPORT

Independent auditor's report to the Scottish Information Commissioner, the Auditor General for Scotland and the Scottish Parliament

Reporting on the audit of the financial statements

Opinion on financial statements

We have audited the financial statements in the annual report and accounts of Scottish Information Commissioner for the year ended 31 March 2024 under the Freedom of Information (Scotland) Act 2002. The financial statements comprise the Statement of Comprehensive Net Expenditure, the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and notes to the financial statements, including material accounting policy information. The financial reporting framework that has been applied in their preparation is applicable law and UK adopted international accounting standards, as interpreted and adapted by the 2023/24 Government Financial Reporting Manual (the 2023/24 FReM).

In our opinion the accompanying financial statements:

- give a true and fair view of the state of the body's affairs as at 31 March 2024 and of its net expenditure for the year then ended;
- have been properly prepared in accordance with UK adopted international accounting standards, as interpreted and adapted by the 2023/24 FReM; and
- have been prepared in accordance with the requirements of the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers.

Basis for opinion

We conducted our audit in accordance with applicable law and International Standards on Auditing (UK) (ISAs (UK)), as required by the [Code of Audit Practice](#) approved by the Auditor General for Scotland. Our responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of our report. We were appointed by the Auditor General on 18 May 2022. Our period of appointment is five years, covering 2022/23 to 2026/27. We are independent of the body in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK including the Financial Reporting Council's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. Non-audit services prohibited by the Ethical Standard were not provided to the body. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern basis of accounting

We have concluded that the use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work we have performed, we have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the body's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from when the financial statements are authorised for issue.

These conclusions are not intended to, nor do they, provide assurance on the body's current or future financial sustainability. However, we report on the body's arrangements for financial sustainability in a separate Annual Audit Report available from the [Audit Scotland website](#).

Risks of material misstatement

We report in our separate Annual Audit Report the most significant assessed risks of material misstatement that we identified and our judgements thereon.

Responsibilities of the Accountable Officer for the financial statements

As explained more fully in the Statement of Accountable Officer's Responsibilities, the Accountable Officer is responsible for the preparation of financial statements that give a true and fair view in accordance with the financial reporting framework, and for such internal control as the Accountable Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Accountable Officer is responsible for assessing the body's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there is an intention to discontinue the body's operations.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of users taken on the basis of these financial statements.

Irregularities, including fraud, are instances of non-compliance with laws and regulations. We design procedures in line with our responsibilities outlined above to detect material misstatements in respect of irregularities, including fraud. Procedures include:

- using our understanding of the central government sector to identify that the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers are significant in the context of the body;
- inquiring of the Accountable Officer as to other laws or regulations that may be expected to have a fundamental effect on the operations of the body;
- inquiring of the Accountable Officer concerning the body's policies and procedures regarding compliance with the applicable legal and regulatory framework;

- discussions among our audit team on the susceptibility of the financial statements to material misstatement, including how fraud might occur; and
- considering whether the audit team collectively has the appropriate competence and capabilities to identify or recognise non-compliance with laws and regulations.

The extent to which our procedures are capable of detecting irregularities, including fraud, is affected by the inherent difficulty in detecting irregularities, the effectiveness of the body's controls, and the nature, timing and extent of the audit procedures performed.

Irregularities that result from fraud are inherently more difficult to detect than irregularities that result from error as fraud may involve collusion, intentional omissions, misrepresentations, or the override of internal control. The capability of the audit to detect fraud and other irregularities depends on factors such as the skilfulness of the perpetrator, the frequency and extent of manipulation, the degree of collusion involved, the relative size of individual amounts manipulated, and the seniority of those individuals involved.

A further description of the auditor's responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website www.frc.org.uk/auditorsresponsibilities. This description forms part of our auditor's report.

Reporting on regularity of expenditure and income

Opinion on regularity

In our opinion in all material respects the expenditure and income in the financial statements were incurred or applied in accordance with any applicable enactments and guidance issued by the Scottish Ministers.

Responsibilities for regularity

The Accountable Officer is responsible for ensuring the regularity of expenditure and income. In addition to our responsibilities in respect of irregularities explained in the audit of the financial statements section of our report, we are responsible for expressing an opinion on the regularity of expenditure and income in accordance with the Public Finance and Accountability (Scotland) Act 2000.

Reporting on other requirements

Opinion prescribed by the Auditor General for Scotland on audited parts of the Remuneration and Staff Report

We have audited the parts of the Remuneration and Staff Report described as audited. In our opinion, the audited parts of the Remuneration and Staff Report have been properly prepared in accordance with the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers.

Other information

The Accountable Officer is responsible for the other information in the annual report and accounts. The other information comprises the Performance Report and the Accountability Report excluding the audited parts of the Remuneration and Staff Report.

Our responsibility is to read all the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge

obtained in the course of the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon except on the Performance Report and Governance Statement to the extent explicitly stated in the following opinions prescribed by the Auditor General for Scotland.

Opinions prescribed by the Auditor General for Scotland on Performance Report and Governance Statement

In our opinion, based on the work undertaken in the course of the audit:

- the information given in the Performance Report for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers; and
- the information given in the Governance Statement for the financial year for which the financial statements are prepared is consistent with the financial statements and that report has been prepared in accordance with the Freedom of Information (Scotland) Act 2002 and directions made thereunder by the Scottish Ministers.

Matters on which we are required to report by exception

We are required by the Auditor General for Scotland to report to you if, in our opinion:

- adequate accounting records have not been kept; or
- the financial statements and the audited parts of the Remuneration and Staff Report are not in agreement with the accounting records; or
- we have not received all the information and explanations we require for our audit.

We have nothing to report in respect of these matters.

Conclusions on wider scope responsibilities

In addition to our responsibilities for the annual report and accounts, our conclusions on the wider scope responsibilities specified in the Code of Audit Practice are set out in our Annual Audit Report.

Use of our report

This report is made solely to the parties to whom it is addressed in accordance with the Public Finance and Accountability (Scotland) Act 2000 and for no other purpose. In accordance with paragraph 108 of the Code of Audit Practice, we do not undertake to have responsibilities to members or officers, in their individual capacities, or to third parties.

Angela Pieri, (for and on behalf of Grant Thornton UK LLP),
110 Queen Street
Glasgow
G1 3BX

Date:.....

FINANCIAL STATEMENTS 2023-24

Financial Statements and notes

Statement of comprehensive net expenditure for the year ended 31 March 2024

	Notes	2023-24 £'000	2022-23 £'000
Income			
Other income	4	(23)	0
Expenditure			
Staff costs	6	1,727	1,488
Other administration costs	8	343	304
Depreciation and amortisation	9,10,11	72	89
Net administration costs		2,142	1,881
Net operating costs		2,119	1,881
Finance income	5	(5)	(2)
Finance expense	5	5	5
Net expenditure for the year		2,119	1,884

All amounts relate to continuing activities.

In addition to the gains and losses recognised in the Statement of Comprehensive Net Expenditure above, there was a revaluation gain credited to the revaluation reserve

The accompanying notes on pages 80-90 form an integral part of these accounts.

Statement of Financial Position as at 31 March 2024

	Note	2023-24 £'000	2022-23 £'000
Non-current assets			
Property, plant and equipment	9	92	76
Right of use assets	10	834	883
Intangible assets	11	3	9
Non-current assets		929	968
Current assets			
Trade and other receivables	12	19	7
Cash and cash equivalents	13	172	337
Current assets		191	344
Total assets		1,120	1,312
Current liabilities			
Trade and other payables	14	(266)	(267)
Assets less liabilities		854	1,045
Non current liabilities			
Trade and other payables	14	(772)	(821)
Assets less liabilities		82	224
Taxpayers Equity			
General Fund	15	53	197
Revaluation reserve	15	29	27
Taxpayers Equity		82	224

The accompanying notes on pages 80-90 form an integral part of these accounts.

As Accountable Officer, I authorised the Financial Statements 2023-24 for issue on 30 September 2024.

David Hamilton, Accountable Officer

Date:

Statement of cash flows for the period ended 31 March 2024

	Note	2023-24 £'000	2022-23 £'000
Cash flows from operating activities			
Operating cost		(2,142)	(1,881)
Adjustments for non-cash transactions			
Depreciation and amortisation	9,10,11	72	89
Movements in working capital			
(Increase)/Decrease in trade and other receivables	12	(12)	13
Increase/(Decrease) in trade and other payables	14	(50)	938
Net cash outflow from operating activities		(2,132)	(841)
Cash flows from investing activities			
Recovery of court costs	4	23	0
Interest receivable	5	5	2
Interest on finance leases	5	(5)	(5)
Purchase of property, plant and equipment	9	(31)	(18)
Recognition of right of use assets	10	0	(932)
Purchase of intangible assets	11	0	(3)
Net cash outflow from investing activities		(8)	(956)
Total cash outflows from operating and investing activities		(2,140)	(1,797)
Cash inflows from SPCB financing activities	3	1,975	1,843
Net increase in cash and cash equivalents		(165)	46
Cash and cash equivalents at beginning of period	13	337	291
Cash and cash equivalents at end of period	13	172	337
Net increase in cash and cash equivalents		(165)	46

The accompanying notes on pages 80-90 form an integral part of these accounts.

Statement of changes in taxpayers' equity for the year ended 31 March 2024

	General Fund		Revaluation Reserve		Total Reserves	
	2023-24 £'000	2022-23 £'000	2023-24 £'000	2022-23 £'000	2023-24 £'000	2022-23 £'000
Balance at 1 April	197	238	27	27	224	265
Net operating cost for year	(2,119)	(1,884)	0	0	(2,119)	(1,884)
Net funding	1,975	1,843	0	0	1,975	1,843
Revaluation of artwork	0	0	2	0	2	0
Balance at 31 March	53	197	29	27	82	224

The accompanying notes on pages 80-90 form an integral part of these accounts.

Notes to the Financial Statements

1. Accounting policies

These financial statements have been prepared in accordance with the Government Financial Reporting Manual 2023-24 (FReM) in compliance with the direction issued by Scottish Ministers under Section 19(4) of the Public Finance and Accountability (Scotland) Act 2000. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the 2023-24 FReM permits a choice of accounting policy, the accounting policy judged to be the most appropriate to the circumstances of the Scottish Information Commissioner (Commissioner) in order to provide a true and fair view has been selected. The particular accounting policies adopted by the Commissioner are described below. They have been applied consistently in dealing with items considered material in relation to the financial statements.

1.1. Accounting convention

These financial statements have been prepared under the historical cost convention modified to account for the revaluation of property and plant and equipment, at their value to the organisation by reference to their current costs.

1.2. Critical Judgements in Applying Accounting Policies

In applying the accounting policies set out in these Notes, the Commissioner has had to make judgements about financial transactions or those involving uncertainty about future events. The critical judgements made in the Financial Statements are that the organisation will continue as a going concern and will be appropriately funded by the SPCB and that the right of use asset will be retained until the end of the lease term.

1.3. Critical Accounting Estimates

The Financial Statements contain estimated figures that are based on assumptions about the future or that are otherwise uncertain. Estimates are made taking account of historical experience, current trends and other relevant factors but cannot be determined with certainty. Actual results could be different from the assumptions and estimates, but are unlikely to be material.

1.4. Property, Plant and Equipment (PPE)

1.4.1. Recognition

All Property, Plant and Equipment assets are accounted for as non-current assets unless they are deemed to be held for sale. Enhancements to occupied space related to a Property interest held under an operating lease, such as interior fit-out costs, and including related professional fees, are capitalised.

1.4.2. Capitalisation

The minimum levels for capitalisation of a PPE asset are:

Leasehold improvements	£10,000 inclusive of irrecoverable VAT
Artwork, Fixtures, fittings and equipment and IT equipment	£500 inclusive of irrecoverable VAT

1.4.3. Depreciation

Depreciation is provided at rates calculated to write off the valuation of buildings and other PPE assets by equal instalments over their estimated useful lives which are normally in the following ranges:

Leasehold improvements	Over the initial period of the lease
Furniture and equipment	5 years
Fixtures, fittings	5 years
IT equipment	3 years

1.4.4. Valuation

Assets other than artwork are held at depreciated historic value. Artwork is held at open market value and is revalued every 3 years. Open market value has been used as a proxy for fair value.

1.4.5. Intangible non-current assets

Software and licences are capitalised as intangible non-current assets and amortised on a straight-line basis over the expected life of the asset (3 years).

1.5. Financial instruments

Financial instruments are classified and accounted for according to the substance of the contractual agreement as either financial assets or financial liabilities.

The fair value can be assessed by calculating the present value of the cash flows that will take place over the remaining period of the instrument, using the assumptions that the fair value of trade and other receivables and payables is taken to be the invoiced or billed amount.

The Commissioner has classified its financial instruments as follows:

1.5.1. Financial assets

Cash and cash equivalents, trade receivables, accrued income and amounts receivable are reported in the "current assets" category.

1.5.2. Financial liabilities

Trade payables, accruals and creditors are classified as "current liabilities".

1.6. Funding receivable

Funding received from the SPCB is credited directly to a prescribed income account in the year to which it relates.

1.7. Value Added Tax (VAT)

The Commissioner is not registered for VAT. All amounts are recorded inclusive of VAT.

1.8. Leases

Leases are accounted for in accordance with IFRS 16, as interpreted and adapted in the FreM. Where a lease has been identified the Commissioner recognises a right-of-use asset and a corresponding lease liability, except for short term leases and leases for which the underlying asset is of low value. For such leases, the lease payments are recognised as an expense on a straight line basis over the lease term. Where the interest rate implicit in a lease cannot be

readily determined, the Commissioner calculates the lease liability using HM treasury discount rates promulgated in PES papers as the incremental borrowing rate. The Commissioner does not apply IFRS 16 to leases of intangible assets and recognises these in accordance with IAS 38 where appropriate.

1.9. Pension costs

The Commissioner is paid through the SPCB's payroll and is a member of the Civil Servants and Others Pension Scheme (CSOPS).

Pension benefits for the Commissioner's staff are provided through the Civil Service Pension arrangements and a partnership pension with a private sector pension scheme.

Civil Service pension arrangements

The Civil Service Pension schemes are unfunded multi-employer defined benefit schemes. The Commissioner is unable to identify its share of the underlying assets and liabilities and therefore, pension assets and liabilities have not been recognised on the Statement of Financial Position. As a result, the schemes are accounted for as defined contribution plans.

Pension benefits are provided through the Civil Service pension arrangements. Before 1 April 2015, the only scheme was the Principal Civil Service Pension Scheme (PCSPS), which is divided into a few different sections – **classic, premium, and classic plus** provide benefits on a final salary basis, whilst **nuvos** provides benefits on a career average basis. From 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or **alpha**, which provides benefits on a career average basis. All newly appointed civil servants, and the majority of those already in service, joined the new scheme.

The PCSPS and **alpha** are unfunded statutory schemes. Employees and employers make contributions (employee contributions range between 4.6% and 8.05%, depending on salary). The balance of the cost of benefits in payment is met by monies voted by Parliament each year. Pensions in payment are increased annually in line with the Pensions Increase legislation. Instead of the defined benefit arrangements, employees may opt for a defined contribution pension with an employer contribution, the **partnership** pension account.

In **alpha**, pension builds up at a rate of 2.32% of pensionable earnings each year, and the total amount accrued is adjusted annually in line with a rate set by HM Treasury. Members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004. All members who switched to **alpha** from the PCSPS had their PCSPS benefits 'banked', with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave **alpha**.

The accrued pensions shown in this report are the pension the member is entitled to receive when they reach normal pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over normal pension age. Normal pension age is 60 for members of **classic, premium, and classic plus**, 65 for members of **nuvos**, and the higher of 65 or State Pension Age for members of **alpha**. The pension figures in this report show pension earned in PCSPS or **alpha** – as appropriate. Where a member has benefits in both the PCSPS and **alpha**, the figures show the combined value of their benefits in the two schemes but note that the constituent parts of that pension may be payable from different ages.

When the Government introduced new public service pension schemes in 2015, there were transitional arrangements which treated existing scheme members differently based on their

age. Older members of the PCSPS remained in that scheme, rather than moving to **alpha**. In 2018, the Court of Appeal found that the transitional arrangements in the public service pension schemes unlawfully discriminated against younger members.

As a result, steps are being taken to remedy those 2015 reforms, making the pension scheme provisions fair to all members. The public service pensions remedy is made up of two parts. The first part closed the PCSPS on 31 March 2022, with all active members becoming members of **alpha** from 1 April 2022. The second part removes the age discrimination for the remedy period, between 1 April 2015 and 31 March 2022, by moving the membership of eligible members during this period back into the PCSPS on 1 October 2023. This is known as “rollback”.

For members who are in scope of the public service pension remedy, the calculation of their benefits for the purpose of calculating their Cash Equivalent Transfer Value and their single total figure of remuneration, as of 31 March 2023 and 31 March 2024, reflects the fact that membership between 1 April 2015 and 31 March 2022 has been rolled back into the PCSPS. Although members will in due course get an option to decide whether that period should count towards PCSPS or **alpha** benefits, the figures show the rolled back position i.e., PCSPS benefits for that period.

The **partnership** pension account is an occupational defined contribution pension arrangement which is part of the Legal & General Mastertrust. The employer makes a basic contribution of between 8% and 14.75% (depending on the age of the member). The employee does not have to contribute but, where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer’s basic contribution). Employers also contribute a further 0.5% of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

Further details about the Civil Service pension arrangements can be found at the website www.civilservicepensionscheme.org.uk.

1.10. International Financial Reporting Standards (IFRS)

Adoption of new and revised Standards

a) **Standards, amendments and interpretations effective in the current year**

In the current year, the Commissioner has applied a number of amendments to IFRS Standards and Interpretations that are effective for an annual period that begins on or after 1 January 2023. Their adoption has not had any material impact on the disclosures or on the amounts reported in these financial statements:

- IFRS 16 - Leases

b) **Standards, amendments and interpretations early adopted this year**

There are no new standards, amendments or interpretations early adopted this year.

c) **Standards, amendments and interpretations issued but not adopted this year**

The Commissioner discloses accounting standards not yet applied and assesses the possible impact that initial application would have on the financial statements. At the date of authorisation of the financial statements the following new and revised IFRS Standards have been issued but are not yet effective:

- IFRS 16: Leases on sale and leaseback. Applicable for periods beginning on or after 1 April 2024

- Amendment to IAS 1: Non-current liabilities with covenants. Applicable for periods beginning on or after 1 April 2024
- Amendment to IAS 7 and IFRS 7: Supplier finance. Applicable for periods beginning on or after 1 April 2024
- Amendments to IAS 21: Lack of Exchangeability. Applicable for periods beginning on or after 1 April 2024

An initial quantification of the expected impact in applying the standard has been made and the Commissioner does not expect the implementation of these standards to have a material impact on the financial statements.

1.11. Right of Use Assets

Right-of-use assets are depreciated on a straight line basis over the associated lease term, or estimated useful life where this is shorter. Impairment losses are charged in the same way as those arising on property, plant and equipment.

As permitted by the FReM, right-of-use assets are subsequently measured using the cost model as a proxy for the measurement of the cost value in use. This is because lease terms require lease payments to be updated for market conditions, for example, rent reviews for leased properties, which will be captured in the IFRS 16 cost measurement provisions. Right-of-use assets also have shorter useful lives and values than their respective underlying assets and, as such, cost can be used as a proxy for assets with shorter economic lives or lower values in accordance with the FReM.

2. Prior year adjustments

No prior year adjustments have been made.

3. Performance against budget

The Commissioner is funded through the SPCB. For the financial year 2023-24 the Commissioner was allocated a funding budget of £2,232,000.

	Budget		Expenditure		Variance	
	2023-24	2022-23	2023-24	2022-23	2023-24	2022-23
	£'000	£'000	£'000	£'000	£'000	£'000
Net operating costs	2,213	1,927	2,119	1,884	94	43
Capital expenditure	19	13	31	953 ²⁴	(12)	(940)
Total expenditure	2,232	1,940	2,150	2,837	82	(897)
Accruals adjustments						
Non-cash items	-	-	(72)	(89)	72	89
Working capital (including cash)	-	-	(103)	(905)	101	905
Cash funding from the SPCB	2,232	1,940	1,975	1,843	257	97

²⁴ Includes Recognition of right to use assets in accordance with IFRS 16, 2022-23 £932,000 (2021-22 £NIL) (see Note 10)

4. Income

	2023-24	2022-23
	£'000	£'000
Recovery of court costs	23	0

Any income that is received is credited to the Statement of Comprehensive Net Expenditure.

It is unusual for us to receive income but, where possible, we seek to recover court costs and any court costs received are treated as income.

5. Finance income and expenditure

	2023-24	2022-23
	£'000	£'000
Income		
Bank interest received	5	2
Expenditure		
Interest on finance leases	5	5

6. Staff costs

	Total	Commissioner	Senior Management Team	Staff	Total
	2023-24	2023-24	2023-24	2023-24	2022-23
	£'000	£'000	£'000	£'000	£'000
Salaries / Wages	1,245	96	244	905	1,086
ERNIC	137	12	29	96	122
Pension Costs	345	28	66	251	280
Total	1,727	136	339	1,252	1,488

Salaries **include** basic salaries and are adjusted for accrued holiday pay. They do not include employee National Insurance or pensions contributions.

7. Pension costs

The details of the pension costs are set out in the table shown in Note 6.

For 2023-24, employer's contributions were payable to the Civil Service and Others Pension Scheme (CSOPS) or the Principal Civil Service Pension Scheme (PCSPS) at one of four rates in the range 26.6% to 30.3% of pensionable pay, based on defined salary bands. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme.

One employee has opted for a partnership pension with a private sector pension scheme into which the SIC made an employer contribution in 2023-24. For partnership pensions, employer contributions are age-related and range from 8% to 14.75% of pensionable pay.

There were no outstanding scheme contributions as at 31 March 2024 (2022-23: £NIL).

The expected employer contributions rate for 2024-25 is 28.97% across all salary bands and the estimated staff pension costs are £385,301.

8. Other administrative costs

	2023-24	2022-23
	£'000	£'000
Property costs	42	40
Research and promotion	22	12
Administration costs	193	198
Legal costs for court of session hearings	55	31
Travel and expenses	7	1
Audit Fees	24	22
Total	343	304

Included within Administration costs is £1,501 (2022-23: £1,617) equipment rental. Costs in association with operating leases is NIL (2022-23 £NIL).

9. Property, plant and equipment

	Lease Improvements		Artwork		Fixtures, fittings and equipment		Information Technology		Total	
	2023- 24	2022- 23	2023- 24	2022- 23	2023- 24	2022- 23	2023- 24	2022- 23	2023- 24	2022- 23
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Cost or Valuation										
At 1 April	0	214	42	42	146	136	111	103	299	495
Additions	0	0	0	0	0	10	31	8	31	18
Revaluations	0	0	2	0	0	0	0	0	2	0
Disposals	0	(214)	0	0	0	0	(9)	0	(9)	(214)
At 31 March	0	0	44	42	146	146	133	111	323	299
Depreciation										
At 1 April	0	214	0	0	131	127	92	69	223	410
Charge for year	0	0	0	0	4	4	13	23	17	27
Disposals	0	(214)	0	0	0	0	(9)	0	(9)	(214)
At 31 March	0	0	0	0	135	131	96	92	231	223
Net book value at 31 March 2024	0	0	44	42	11	15	37	19	92	76
Net book value at 31 March 2023	0	0	42	42	15	9	19	34	76	85

The Commissioner's artwork was valued on 15 April 2024 by scotlandart.com, independent art dealers and on 3 June 2024 by David Mach Limited. The Commissioner considers the valuation to be appropriate for the financial year ending 31 March 2024. The basis of valuation used was open market value and the unrealised gain was transferred to the revaluation reserve. No other assets have been revalued.

10. Right of use assets

Right of use assets represent the right to direct the use of an underlying asset arising as a result of a lease. The Commissioner's office does not own the underlying asset, but recognises the value of the right to use in accordance with IFRS 16.

	2023-24
	£'000
Lease of office premises	
Cost	
At 1 April 2023 and 31 March 2024	932
Amortisation	
As at 1 April 2023	49
Charge for the year	49
At 31 March 2024	98
As at 31 March 2024	834
As at 1 April 2023	883

11. Intangible assets comprise software and licences

	2023-24
	£'000
Cost	
As at 1 April 2023	69
Additions	0
Disposals	0
At 31 March 2024	69
Amortisation	
As at 1 April 2023	60
Charge for the year	6
Disposals	0
At 31 March 2024	66
Net book value at 31 March 2024	3
Net book value at 31 March 2023	9

12. Trade and other receivables

	2023-24	2022-23
	£'000	£'000
Amounts falling due within one year		
Prepayments and accrued income	19	7
Receivable within one year	19	7

13. Cash and cash equivalents

	2023-24	2022-23
	£'000	£'000
Balance as at 1 April 2023	337	291
Net change in cash and cash equivalent balances	(165)	46
Balance as at 31 March 2023	172	337
Cash held at commercial banks	172	337

Cash and cash equivalents include cash in hand and deposits held on call at two bank accounts. The funding received from the SPCB is paid into one of the accounts and moneys are transferred to the second account for the payment of invoices.

14. Trade and other payables

	2023-24	2022-23
	£'000	£'000
Amounts falling due within one year		
Trade payables	15	9
HMRC	33	29
Accruals and deferred income	164	175
Lease liabilities	54	54
Total	266	267
Amounts falling due after one year		
Lease liabilities	772	821

15. Capital and reserves

15.1. General fund

	2023-24	2022-23
	£'000	£'000
As at 1 April 2023	197	238
Net expenditure for the year	(2,119)	(1,884)
Funding from the SPCB	1,975	1,843
As at 31 March 2024	53	197

15.2. Revaluation reserve

	2023-24	2022-23
	£'000	£'000
As at 1 April 2023	27	27
Increase in valuation	2	0
Revaluation reserve	29	27

16. Capital commitments

There were no contracted capital commitments as at 31 March 2024 (2022-23: £NIL).

17. Contingent liabilities disclosed under IAS 37

There are no contingent liabilities as at 31 March 2024 (2022-23: £NIL).

18. Related party transactions

The Commissioner receives funding from the SPCB following an annual Parliamentary budget approval process. The SPCB is regarded as a related party. Neither the Commissioner, nor any of his staff, has undertaken any material transactions with either the SPCB or the Commissioner or the office of the Commissioner during the year.

19. Post reporting year events

No event has occurred since the date of the Statement of Financial Position which materially affects the financial statements.

20. Financial instruments

Financial assets and liabilities are carried in the Statement of Financial Position at amortised cost.

Credit risk - the Commissioner receives funding on a monthly basis and restricts cash holdings to a minimum.

Liquidity risk - the Commissioner does not have any external borrowings.

Market risk - Changes in market interest rates influence the interest receivable on surplus funds invested. The Commissioner does not rely on interest receivable as its key source of income.



SCOTTISH INFORMATION COMMISSIONER

DIRECTION BY THE SCOTTISH MINISTERS

1. The Scottish Ministers, in pursuance of paragraph 5 of Schedule 2 of the Freedom of Information (Scotland) 2002, hereby give the following direction.
2. The statement of accounts for the financial year ended 31 March 2006, and subsequent years, shall comply with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (FRM) which is in force for the year for which the statement of accounts are prepared.
3. The accounts shall be prepared so as to give a true and fair view of the income and expenditure and cash flows for the financial year, and of the state of affairs as at the end of the financial year.
4. This direction shall be reproduced as an appendix to the statement of accounts. The direction given on 20 April 2004 is hereby revoked.

Signed by the authority of the Scottish Ministers

Dated

A. J. Staffin
1 September 2006.

Scottish Information Commissioner

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Laid before the Scottish Parliament in September 2024 in pursuance of section 46 of the Freedom of Information (Scotland) Act 2002 and section 22(5) of the Public Finance and Accountability (Scotland) Act 2000.

SG laying number: SG/2024/205