

Report to:	QSMTM
Report by:	Claire Stephen, Head of Policy and Information Team
Meeting Date:	31 May 2024
Subject/ Title: (and VC no)	2023-24 Publication Scheme (Public Authorities) Performance Report VC205728
Attached Papers (title and VC no)	None

Purpose of report

1. To provide the publication schemes (public authorities) performance report 2023-24 as required by the Governance Reporting Framework, and to provide assurance that management of publication scheme adoptions is meeting the key performance indicators set out in the Performance and Quality Framework.

Recommendation and actions

2. I recommend that:
 - (i) The Senior Management Team (SMT) note the contents of this report.
 - (ii) This committee report is published in full, as set out in the publication section below.

Executive summary

3. The key performance indicators for publication schemes for new bodies 2023-24 are:

Publication Schemes	Annually	Publication Scheme notifications for new bodies completed: (i) 80% within one month of due date* (ii) 100% notified or enforcement commenced within 3 months of due date
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*Set at the point of publication scheme file creation, related to commencement date or the date on which we become aware of the authority (usually within three months of either of these points)

4. This year, we haven't had a large tranche of new bodies coming under the scope e.g. RSLs. The due date is nearly always defined by the commencement date, but in some other cases where we alerted to, or discover the creation of a new body (usually post 'commencement' or founding), the 'due date' will be defined on a case-by-case basis taking all circumstances into account.

2023-24 Publication Scheme Notifications

5. Two authorities notified the Commissioner of their adoption of a publication scheme in 2023-24

Authority Name	Authority type	Commencement date	Due date	Notification date
Caledonian Sleeper*	Section 6	1 June 2023 2pm	04/08/2023	27/07/2023
UHI North, West and Hebrides (3 bodies merged into 1)	Section 6	1 September 2023	01/09/2023	24/10/2023

*Caledonian Sleeper was set up by SERCO at short notice hence the “due date” took into account the particular circumstances involved.

Other Publication Scheme work in 2024

- (i) The Scottish Pubs Code Adjudicator is a new statutory body established by the Tied Pubs (Scotland) Act 2021. The “go live” date was anticipated in 2023 and work began to support this new body with its Publication Scheme duty under FOISA. The founding legislation was subject to legal challenge through the courts, delaying the “go live” date and impacting on notification of a new Publication Scheme. Work is ongoing but as things currently stand, the Scottish Pubs Code Adjudicator (Duty to Publish Certain Information) Regulations 2024 will make the Adjudicator subject to a duty to publish information under the Public Services Reform (Scotland) Act 2010 (by adding the Adjudicator to the public bodies listed in schedule 8 of the Public Services Reform (Scotland) Act 2010. This is not yet complete but is expected to be in place in time for the regulatory regime coming into force on 7 October 2024, by which we need to ensure we have both received notification of its Publication Scheme, and the Commissioner has given his approval.
- (ii) P&I Team also undertook Publication Scheme Notification work with National Smart Ticketing Board (the Board) for an expected due date of 1 April 2024. On 8 March 2024 this new body informed us that the Board would be set up in such a way that it would not meet the definition in FOISA of a Scottish Public Authority in its own right. Instead, the Board, and the National Smart Ticketing function, would remain part of Transport Scotland’s remit. Given this change of set-up, we no longer required Publication Scheme notification.

Table 1: KPIs for new bodies 2023-2024

			Target	Actual
Number of bodies: 2				
KPI 1: notified by date due		1	80%	100%
KPI 2: completed within 3 months, comprising:		2	100%	100%
a) notified by due date (KPI 1 above)	1			
b) notification within three months of date due	1			

(without enforcement), or				
c) enforcement commenced within three months of date due	0			
completed later than 3 months after due date		0		
not completed		0		
enforcement action ongoing		0		

Risk impact

6. The risks associated with failure to adequately monitor public authority compliance are sufficiently adequately captured in the current documentation.

Equalities impact

7. Equalities impacts arise from adoption of the Model Publication Scheme as it requires authorities to make published information available in a range of formats to ensure equitable access.
8. There are, however, no identified equalities impacts arising from the notification process.

Privacy impact

9. There are no privacy impacts arising from publication scheme adoptions beyond the retention of public authority contact information in publication scheme case files.

Resources impact

10. Management of publication scheme notifications by new bodies created by primary legislation is a business as usual activity for which resources are allocated as part of routine operational planning.

Operational/ strategic plan impact

11. Management of publication scheme notifications is a 'business as usual' item in the Commissioner's annual operational plan. It has not raised any unanticipated impact for current or future operational and strategic plans.

Records management impact (including any key documents actions)

12. No new impacts identified.

Consultation and Communication

13. None required – this report will be published on the Commissioner's website.

Publication

14. I recommend that this committee report is published in full.