

# Annual Report 2007 - The Key Facts

10<sup>th</sup> March 2008



[www.itspublicknowledge.info](http://www.itspublicknowledge.info)

This factsheet summarises the key facts from the Scottish Information Commissioner's Annual Report 2007. The report looks back over his first 5 years in office, and charts the Commissioner's vision for the next 4 years.

## PAST: BRINGING THE ACT INTO EFFECT

- The Freedom of Information (Scotland) Act came into effect on 1 January 2005. In the first 3 years of operation, the Commissioner received 1,574 applications and issued 594 decisions.
- Over 75% of applications to the Commissioner have come from ordinary members of the public. The share of applications from solicitors has declined (from 19% in 2005 to just 3% in 2007), and the media account for only 7% of applications.
- The most popular subject of applications in the first three years were: the administration and finance of public bodies; safety and crime; and commercial contracts.
- Some of the information released as a result of the Commissioner's decisions has been high profile on sensitive matters e.g. surgical mortality rates for Scotland, sex offenders statistics, and an entire PPP/PFI hospital contract.
- Of the Commissioner's 594 decisions from 2005 to 2007, 25% have been wholly in the applicant's favour, 41% for the public authority, and the remaining 34% partially upheld.
- The Environmental Information (Scotland) Regulations 2004 (EIRs) provide access to environmental information – applications to the Commissioner under the EIRs are significantly lower than for FOISA, and are declining.
- Public awareness of FOISA has risen from 44% in 2004, to 74% in 2007 – but awareness of EIRs stands at 19%.
- 71% of public authorities in a recent survey<sup>1</sup> reported changes in their culture as a direct result of FOISA. 89% believe they have become more open since FOISA came into effect.

## PRESENT: A REPORT CARD FOR 2007

- In 2005, applications far exceeded expectation, creating a backlog in the Commissioner's Office. By 2007, this was greatly reduced and the target is to close all backlog cases by April 2008. As backlog cases are resolved, the age profile of cases under investigation has greatly reduced.
- This was achieved through additional staff resources (the Commissioner now has a staff complement of 24) and organisational restructuring.

<sup>1</sup> "The Freedom of Information (Scotland), Act 2002: New modes of Information Management in Scottish Public Bodies?" – Dr Eleanor Burt of St Andrews University and Professor John Taylor, of Caledonian Business School.



- Challenges emerged during 2007, which deepened our understanding of FOISA e.g.:
  - The Court of Session found in the Commissioner's favour, that there is no overall 'blanket' exemption for ministerial advice in FOISA, and that each case must be looked at on its merit.
  - Also, blanket commercial confidentiality clauses in contracts may not provide an exemption to FOISA – and contract information which is the result of negotiation may not be exempt.
  - When environmental information is sought, the request must always be processed in accordance with the EIRs.
- In a public opinion survey this year, nearly 1 in 10 respondents had made an FOI request – and 86% of these had received all or some of the information they asked for.
- Of those who had never made a request, only 6% didn't know they could.

## THE NEXT FOUR YEARS

- The report sets out the Commissioner's views on the scale of the remaining challenges to bringing about the desired cultural change towards a more open Scottish society:
  - Research shows that awareness and confidence of FOI rights is lowest amongst young adults, and people with disabilities. Other vulnerable groups who may be unaware of FOISA include refugees and the homeless. FOISA will not have succeeded until all sectors of society are aware of their rights.
  - Scottish public authorities must build on their early success in meeting the challenges of complying with FOISA e.g. by sharing best practice and making more information proactively available.
  - The Commissioner will focus attention on those public authorities in need of particular advice, through the issue of recommendations for improving practice, aimed at encouraging positive change.
  - The transfer of functions from public authorities to private organisations may be unintentionally removing FOI rights from service users. It may be time to examine whether some of these organisations should come within the scope of FOISA in future.
  - The Commissioner will set new targets to progressively reduce the time from receiving an application to issuing a decision – to help get information into the hands of the public as swiftly as possible.
  - Experience world-wide suggests that, as legislation matures, more cases are settled through mediation – the Commissioner will look at what lessons Scotland can learn from elsewhere. However, settlement will not be used to diminish the rights of the public, but to secure an acceptable (and usually speedier) outcome for all parties.

---

**You can order a copy of the Annual Report 2007 by contacting the Scottish Information Commissioner:**

✉ Kinburn Castle, Doubledykes Road, St Andrews KY16 9DS

☎ 01334 464610

@ [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

**or you can download it from the Commissioner's website at:**

🔗 [www.itspublicknowledge.info/home/SICReports/AnnualReports.asp](http://www.itspublicknowledge.info/home/SICReports/AnnualReports.asp)