

Our Ref 201702106

Mr Graeme Dey
Minister for Parliamentary Business and Veterans
Scottish Parliament
Edinburgh
EH99 1SP

8 October 2018

Dear Mr Dey

Scottish Government Draft Action Plan

Thank you for sending the Scottish Government's draft action plan, setting out how the authority proposes to implement the recommendations from my Intervention Report. I note your very positive comments and welcome your continuing support of my intervention.

The draft action plan has been thoroughly constructed, linking each action to the relevant recommendation, with a description of what the authority proposes to do by a defined deadline. I am content that the majority of the proposed actions will achieve the desired practice or performance outcome, such as:

- improved internal FOI performance reporting
- the mandatory statement of compliance for responses, and
- the FOI submission template

I look forward to hearing these developments support the authority to manage its FOI practice and performance in the longer term.

Before I can agree the action plan, however, the following revisions are required.

Clarity about decision making (Recommendation 1(i)-(iii))

While it is positive to see work planned to delegate decision making and to put a triage process in place, continued reference to "clearance" and "comment" will only perpetuate the lack of clarity I observed in the assessment phase of this intervention.

I note that, for example, cases identified as sensitive or exceptionally complex will be referred to special advisers and Ministers for "comment" *after* "clearance". I am concerned that this will not provide the desired clarity or transparency. As my report provided, the role of Ministers and special advisers must be made clear to all in the process, including requesters.

It is important that the procedures to be adopted are clear on who makes the decision on a request and when the decision is made. I therefore suggest that this is given further consideration, and look forward to seeing the final draft.

I appreciate that this particular change may cause some minor revision to the action plan.

Communications Team involvement in requests (Recommendation 1(v))

I welcome the proposal that, except in requests relating to their business area, the role of the Communication Team will be restricted to developing press lines or handling plans in parallel with clearance.

However, the proposed action ought to make clear that, although this work will be done in parallel, the Communication Team's involvement in requests must not delay the issuing of responses.

Development of broader internal reporting (Recommendation 6(ii))

The proposed action for engagement with MiCase should make clear that broader reporting *will*, rather than *might*, be achieved.

I would be grateful to receive the revised action plan, incorporating the above amendments, by 30 October.

Intervention 201700093 (responding on time)

At our meeting on 10 August we noted the improvement that the Scottish Government has achieved in its compliance with the statutory timescales for responding to FOI requests. The authority has achieved a significant transformation within a relatively short period.

Unfortunately continued non-compliance by a small number of business areas affects the authority's overall performance and ability to meet its internal targets. I greatly reassured that this issue is receiving your personal attention.

I am of the view that this first intervention has now achieved its objective and therefore the case can be closed. We share the concern, however, that the performance improvement needs to be sustained for the long-term. For this reason I require the authority to continue submission of monthly monitoring reports to me for the duration of my second intervention (201702016) and any issues arising will be dealt with under that intervention.

Thank you for your attention in relation to this and I look forward to receiving your revised draft action plan with a view to it being agreed in early course.

Kind regards,

Daren Fitzhenry
Scottish Information Commissioner