

Report to:	Senior Management Team (SMT)
Report by:	Daren Fitzhenry (Scottish information Commissioner)
Meeting Date:	4 February 2021
Subject/ Title:	Key document review: Memorandum of Understanding between the Keeper of the Records of Scotland and the Scottish information Commissioner (VC 43175)
Attached Papers	Memorandum of Understanding between the Keeper of the Records of Scotland and the Scottish information Commissioner v1 DRAFT (VC 145399)

Purpose of report

1. To seek Senior Management Team (SMT) approval of negotiating draft for discussions with the Keeper of the Records of Scotland.

Recommendation and actions

2. I recommend that the SMT:
 - (i) approve the attached key document in principle as the basis of negotiation with the Keeper of the Records of Scotland
 - (ii) agree the key document recommendations (see the record management section below)
 - (iii) agree that this Committee Report and the attached papers can be published as set out in the publication section of this report.

Executive summary

Revision of Current MoU

3. The current MoU with the Keeper of the Records was signed in May 2014 and is considerably out of date. It needs to be updated to reflect:
 - i. The change in respective office holders.
 - ii. The publication of the Commissioner's new Enforcement Policy in February 2020.
 - iii. The publication of the Commissioner's new Intervention Procedures in May 2019.
 - iv. Clarification of certain passages in the previous MoU.
4. The attached draft MoU updates the MoU to take account of the above changes, ensuring that it remains relevant and useful in facilitating liaison between the two bodies.
5. The SMT is asked to approve the draft in principle for proposal to the Keeper of the Records as the basis of negotiation

Risk impact

6. The review of the MoU with the Keeper will ensure that an appropriate agreement with a key stakeholder remains up to date, helping to ensure the mitigation of operational risks.

Equalities impact

7. There are no direct equalities impacts arising as a result of the recommendations in this report.

Privacy impact

8. There is no direct privacy impact arising from this committee report or from the document submitted for approval.

Resources impact

9. The procedures will assist the Commissioner and their Enforcement and Policy and Information Teams in their liaison with the Keeper.

Operational/ strategic plan impact

10. The procedures support operational work areas focused on practice recommendations and interventions relating to breaches of the Section 61 Code of Practice.
11. Approving this document will work towards the following strategic objectives as set out in the Strategic Plan 2020-2024:
 - (i) Enable and support high standards of FOI policy and practice (Strategic Aim 2)
 - (ii) Be recognised as an organisation of independent and trusted experts that is run efficiently, governed effectively and is open and transparent (Strategic Aim 6)

Records management impact (including any key documents actions)

12. The document submitted for approval is a key document and will be added to the Register of Key Documents, following negotiation and final SMT approval.
13. Although HOPI is the responsible manager for the document, I will be negotiating this MoU directly.
14. The finalised document will be published in our Guide to Information.

Consultation and Communication

15. The document is being sent to members of the SMT for their consideration and input prior to the commencement of negotiations with the Keeper.
16. If approved the final version will be communicated to all staff and published on the website.

Publication

17. I recommend that this committee report is published in full.
18. I recommend that the attached paper is withheld in full on the basis that it is exempt from disclosure under section 30(B) (ii) of FOISA.