

<b>Report to:</b>	Monthly Senior Management Team Meeting
<b>Report by:</b>	Erin Gray (Head of Policy and Information)
<b>Meeting Date:</b>	16 December 2021
<b>Subject/ Title:</b>	Interventions Activity Reporting Q2 2021-22 (VC 161174)
<b>Attached Papers</b>	Interventions Activity Report Q2 2021-22 (VC 159876)

## Purpose of report

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- To report on interventions activity by the Scottish Information Commissioner ('the Commissioner') across Q2 (July – September) 2021-22 to the Senior Management Team (SMT), as set out in the Commissioner's Governance Reporting Requirements.

## Recommendation and actions

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- I recommend that the SMT:
  - Note the attached report and activity it sets out
  - Agree that this committee report and the attached paper can be published as set out in the publication section below.

## Executive summary

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### Interventions

- The Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 both give the Scottish Information Commissioner ("the Commissioner") the power to act where a public authority is not complying with requirements they set out, or with the Scottish Ministers' Codes of Practice. These powers include:
  - promoting good practice
  - assessing whether an authority is following good practice
  - issuing practice recommendations where it appears to the Commissioner that an authority is not complying with the Codes of Practice
  - issuing enforcement notices where the Commissioner is satisfied that a public authority has failed to comply with FOI law.
- An "intervention" is the term used to describe the action which the Commissioner will take proactively to improve the practice of individual authorities more generally, rather than in relation to the outcome of a specific information request via an application investigation. The Commissioner's [Intervention Procedures](#) set out the specific detail of how and when interventions will be conducted.

## Reporting on interventions activity

5. In 2020-21 the Commissioner began reporting on intervention activity via a report to the SMT. Initially the report was annual, and from 2021-22 reports have been made quarterly.
6. These reports are provided in line with policy set out in the Commissioner's [Intervention Procedures](#) and [Enforcement Policy](#).

## Intervention caseload during Q2 2021-22

7. Intervention activity was much lower in July to September than in the two previous quarters, when there had been a number of cases regarding statistics submission and publication schemes - most of which were promptly closed. A second Level 3 intervention was also opened at the end of September. However, the Quarterly Interventions Meeting on 30 September agreed a number of new interventions, expected to be opened in October, and these will be reported on in the Q3 report.

Active interventions	Oct to Dec 2020	Jan to Mar 2021	Apr to Jun 2021	Jul to Sep 2021
Level 1	9	17	23	<b>6</b>
Level 2	5	5	5	<b>6</b>
Level 3	1	1	1	<b>2</b>
Level 4	0	0	0	<b>0</b>
<b>TOTAL</b>	<b>15</b>	<b>23</b>	<b>29</b>	<b>14</b>

8. Please note: these figures reflect the number of interventions that were active at any point during each three-month period (quarter), rather than only those that were opened in that quarter. Therefore, in many cases, the same intervention will be counted in more than one quarter, and the sum of the quarterly totals has no relevance.

## Risk impact

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9. Timely and accurate reporting on enforcement activity is necessary to ensure the Commissioner demonstrates good practice and governance and mitigate strategic risk to the Commissioner's reputation and public confidence in the role.
10. Reporting on interventions also contribute to mitigation of operational risks, including by supporting efforts to ensure the Commissioner demonstrates robust and defensible decisions; ensuring the organisation engages properly with stakeholders; and ensuring we have appropriate and effective policies in place for every aspect of our business.

## Equalities impact

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

## Privacy impact

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12. There is no new direct privacy impact arising from this committee report or attached paper.

## Resources impact

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13. Interventions are delivered within planned operational resources (though no specific or dedicated resources are provided or allocated for this function). As they are provided within existing resource, then at a time of high applications (as we are currently experiencing) the resource which can be applied to interventions is necessarily more limited. Furthermore, fulfilling the intervention function will necessarily divert resource away from other workstreams, including applications casework.

## Operational/ strategic plan impact

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14. Reporting on intervention activity is required as set out in the current operational plan, and governance reporting arrangements.
15. Reporting on intervention activity contributes to 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)

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16. None identified – other than any updates required to the Commissioner’s Governance Reporting Arrangements.

## Consultation and Communication

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17. The report will be published on the Commissioner’s website and content highlighted in the Commissioner’s newsletter where appropriate.

## Publication

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18. I recommend that this committee report and attached report be published in full.