

Self-assessment Toolkit

Capture, Assess, Improve

Module 6: Monitoring and managing FOI performance Standards and Criteria



Contents

Glossary and Abbreviations	i
Introduction to module 6: Monitoring and managing FOI performance	1
Overview of Process.....	2
Module 6 outcomes and legal context	2
<i>Outcomes</i>	<i>2</i>
<i>Legal context</i>	<i>3</i>
The characteristics of excellent practice in managing performance	4
<i>ONE: Effective governance of the FOI function.....</i>	<i>4</i>
<i>TWO: Robust performance management.....</i>	<i>4</i>
<i>THREE: Good communication across the organisation.....</i>	<i>5</i>
<i>FOUR: Continuous investment in resources and training.....</i>	<i>5</i>
Ratings and evaluation criteria.....	6
Rating	6
Assessment table	6
What next?	6
<i>Work plan</i>	<i>6</i>
<i>Help and advice.....</i>	<i>6</i>
Effectiveness performance matrix	7
Document control sheet.....	8

Glossary and Abbreviations

Term used	Explanation
The Commissioner	The Scottish Information Commissioner
EIRS	Environmental Information (Scotland) Regulations 2004
FOI	FOISA and the EIRs
FOISA	The Freedom of Information (Scotland) Act 2002
SIC	The Scottish Information Commissioner, staff of SIC (depends on context)
S21/R16	Section 21 of FOISA / regulation 16 of the EIRs
Section 60 Code / S60 Code /the Code	Scottish Ministers' Code of Practice on the Discharge of Functions by Scottish Public Authorities under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 (December 2016)

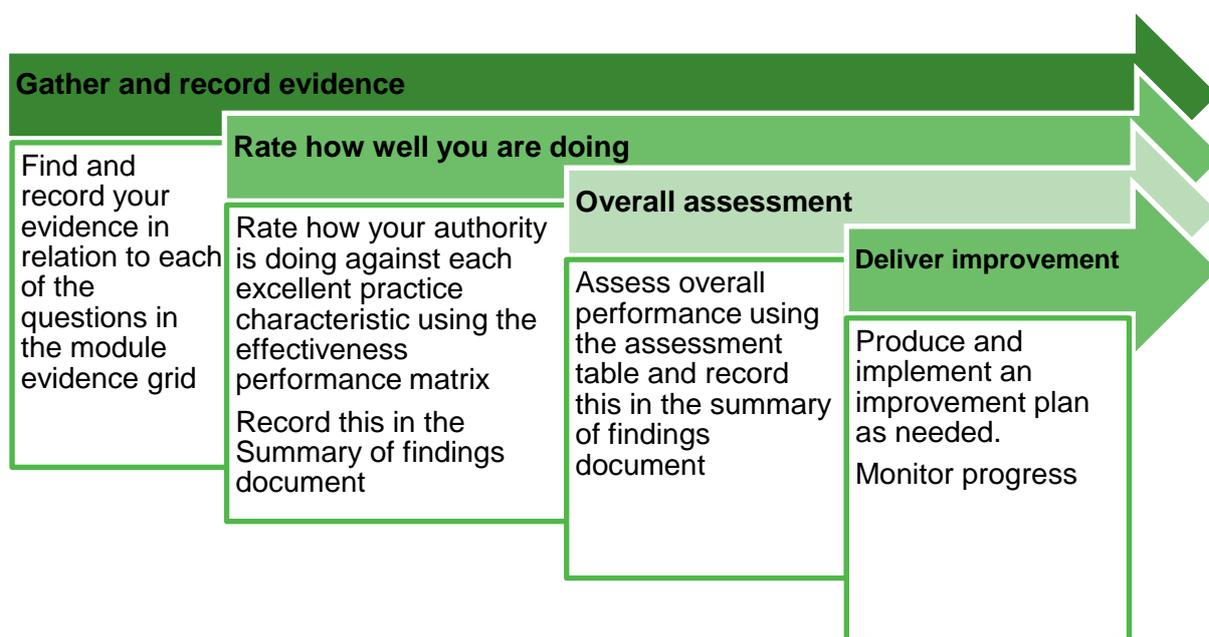
Introduction to Module 6: Monitoring and managing FOI performance

1. This document sets out the standards and criteria against which you will assess your authority's ability to monitor and manage its performance in complying with FOI law.
2. Effective and responsive management of performance not only ensures compliance with FOI law and the Section 60 Code of Practice, but can also increase public trust in the authority by ensuring information rights are respected.
3. Collating, reporting and analysing performance statistics, identifying trends and their root causes and implementing action plans to resolve issues can be a valuable learning exercise for an authority; strengthening governance structures, communication channels and information management practices.
4. Module 6 supports an authority to critically assess its environment, consider how conducive that environment is to supporting access to information, and review how effectively senior management creates a culture of positive and proactive FOI compliance.
5. All of the toolkit resources are available on our [Self-assessment toolkit web page](#).
6. We recommend you read the guidance on **Getting started** and **How to carry out an FOI self-assessment** for advice about how to carry out your assessment and apply the standards.
7. The purpose of self-assessment is to:
 - enable an authority to **capture** the organisation's strengths and good practice in the application of FOI law and codes of practice, then
 - **assess** the effectiveness of that practice, to then
 - identify where and how practice can **improve**.
8. Self-assessment focuses on the key questions:
 - (i) **What** are we doing?
 - (ii) **How** well we are doing it?
 - (iii) **What** are we going to do now?
9. The standards around which the module is written are based on achieving an "excellent" rating. But don't feel this is what you have to aim for right away. Improvement is a journey and you may want to take it in stages. The minimum requirement to meet statutory duties is "adequate". However, your overall improvement plan may seek to achieve different ratings for different areas of practice, depending on your organisation's wider strategic and business aims, or to bring all areas up to, for example, an adequate or good standard.
10. This document is in sections:
 - (i) **Overview of process**: how to carry out an assessment.
 - (ii) **Outcomes and legal context**: what you could achieve through this self-assessment, and your authority's duties under FOI. To comply with FOI legislation, you must achieve at least an **adequate** rating overall.

- (iii) **Characteristics of good practice:** these give you an overview of what excellent practice in monitoring and managing performance looks like.
- (iv) **What next:** improvement planning.
- (v) **Assessment ratings and criteria:** the standards against which you rate your authority's performance as **Excellent, Good, Adequate** or **Unsatisfactory**. (N.B. This section is A3 so it is easier to read but should print out as A4 if sent to an A4 printer.)

Overview of Process

11. Our **Guide: How to carry out a self-assessment** and later sections of this document set out how to approach an assessment, in summary:



Module 6 outcomes and legal context

Outcomes

12. Good practice in monitoring and managing FOI performance contributes to:
- (i) Increased public trust in Scottish public authorities, based on developing a culture of openness and transparency.
 - (ii) Compliance with FOI law and the Section 60 Code of Practice.
 - (iii) More efficient FOI practice and information governance.
 - (iv) Reduced risk of backlogs of requests leading to failures to respond within statutory timescales and consequent FOI reviews and appeals to the Commissioner.
 - (v) Improved quality of service through identifying and responding to emerging trends and resource needs, and benchmarking against other Scottish public authorities.
 - (vi) Enhanced senior-level engagement in FOI objectives and outcomes.

- (vii) Increased service user satisfaction and better relationships with service users.

Legal context

13. FOI legislation in general places three statutory duties on public authorities:
- (i) A duty to respond to requests
 - (ii) A duty to publish information
 - (iii) A duty to advise and assist
14. In respect of measuring performance in fulfilling these duties, the requirements are set out in the Section 60 Code of Practice (the Code). The Commissioner can take action where an authority fails to comply, for example by initiating an intervention or issuing a practice recommendation.
15. Section 2 of Part 2 of the Code relates to recording and reporting of statistics. It states:
- “Authorities must ensure their systems provide adequate statistical information to monitor performance effectively... Monitoring activities should be proportionate to the volume of requests handled by an authority and aligned to its performance monitoring arrangements.”*
16. Although the Code recommends a proportionate approach to performance monitoring, it also lists the types of information that should be included. This list is set out below:

Section 60 Code of Practice statistics

- **The number of requests/requests for review received and whether they fall within FOISA or the EIRs**
- **The proportion of requests answered within statutory timescales (there may also be value in monitoring the length of time it takes to respond to overdue requests)**
- **The number of requests that have been refused and the reasons for the refusal**
- **The number of times a fee has been charged**
- **The outcome of reviews including the number of times an initial decision has been upheld, partially upheld or overturned, or where there has been a failure to respond to the original request**
- **The number of cases that are appealed to the Commissioner and the outcome of such appeals**

17. According to the Code: *“It is good practice for authorities to proactively publish and update their FOI monitoring data online.”* Authorities are encouraged to publish this information on their own websites, and are also asked to report this monitoring data via the Commissioner’s online statistics portal.
18. The Code also says: *“Authorities should review and report on their FOI performance data regularly”* to identify issues with request handling.
19. Making senior management in particular aware of trends in performance and the resulting risks can enable an authority to ensure appropriate actions are taken and resources provided to maintain and improve performance.

As the Code recognises: “Meeting the requirements of the legislation and bringing about a culture of openness depends significantly on leadership from the top.”

The “Roles and Responsibilities” section in Part 2 of the Code describes the measures that should be in place in relation to the governance of an authority’s FOI function.

The characteristics of excellent practice in managing performance

20. Excellent FOI practice in relation to monitoring and managing performance has four main characteristics:
- Effective governance of the FOI function with strong senior management commitment to the values of openness and accountability
 - Robust performance management, with regular reporting and analysis of compliance with internal targets and statutory timescales
 - Good communication across the authority, which encourages collective responsibility for FOI and supports business continuity.
 - Continuous investment in resources and training to support staff in carrying out their FOI duties, reducing the risk of errors and delays

ONE: Effective governance of the FOI function

Senior managers are committed to ensuring the authority meets its obligations under FOI law. The public’s right of access to information is respected and there is an understanding of the strategic importance of upholding it effectively.

This looks like:

- ✓ Openness and accountability are clearly stated aims of the authority, and leaders are responsible for achieving them.
- ✓ Carrying out of responsibilities under FOI is recognised as a statutory function, and the responsibility of staff at all levels and in all areas of the authority is clear.
- ✓ Non-compliance with FOI is documented as a corporate and reputational risk, demonstrating an understanding of the importance of openness in providing good customer service.
- ✓ There are clear mechanisms for identifying and escalating issues relating to FOI compliance, such as staff shortages due to absences and other resource constraints.

TWO: Robust performance management

The authority sets appropriate targets to support compliance with statutory timescales, and carries out regular management reporting of its performance against these targets.

This looks like:

- ✓ Targets are set for each stage of the process of responding to requests, such as logging and acknowledging requests, carrying out searches or reviews, and issuing responses.
- ✓ Performance against these targets is measured systematically and regularly, in a manner that is proportionate to the size of the authority and the numbers of requests received.

- ✓ Regular performance reports are produced for and considered by an appropriate level of senior management, with any notable trends highlighted and root causes identified.
- ✓ Where problems are identified, action plans are agreed and implemented to resolve underlying issues or improve overall performance, and progress against these actions is closely monitored.
- ✓ Quarterly statistics are submitted on time to the Scottish Information Commissioner.
- ✓ Senior management are aware of the importance of ensuring compliance with statutory timescales and the consequences of any shortcomings identified.

THREE: Communication and collective responsibility

Procedures and lines of communication are in place to enable staff across the authority to identify, report and respond to issues that may impact on FOI performance, such as staff absences and competing workloads.

This looks like:

- ✓ All staff understand their collective responsibility to ensure compliance with FOI and the importance of upholding people's right of access to information.
- ✓ All staff are aware of who has specific responsibilities in relation to FOI, and what to do or who to contact if they receive a request or have any problems or queries.
- ✓ Where issues arise or trends emerge for which mitigating actions are required, there are clear reporting lines and regular communication between relevant parties.
- ✓ There is a culture of knowledge sharing across the authority, in which successes or lessons learned in one area are shared with other departments, to ensure a consistent and effective approach to answering similar requests or overcoming common challenges.
- ✓ Procedures, roles and responsibilities are documented, kept up-to-date and widely accessible, to ensure continuity in the event of disaster or unexpected absence of key staff

FOUR: Investment in resources and training

Appropriate systems are in place, guidance is provided to all employees, and those with main responsibility can access relevant training to keep skills and knowledge up-to-date.

This looks like:

- ✓ All staff receive training appropriate to their roles and have access to suitable guidance to enable them to fulfil their duties; this includes being able to recognise a request.
- ✓ FOI Officers are supported in accessing regular training including through external events and courses, to keep up-to-date with the latest developments in FOI practice.
- ✓ Training arrangements and requirements are reviewed periodically and staff are kept up-to-date with changes to procedures and/or practices.
- ✓ Knowledge is not concentrated in a small number of individuals; all staff are sufficiently able to access and apply relevant procedures and processes to ensure continuity in times of absence.
- ✓ Appropriate systems are used to log, monitor and report on requests, in a manner that is proportionate to the size of the authority and the numbers of requests, to enable effective and efficient performance reporting and submission of statistics to the Commissioner.
- ✓ The performance management and monitoring process has a role in identifying resource, training and knowledge gaps.

Ratings and evaluation criteria

Rating

21. Performance is rated as: **Excellent**, **Good**, **Adequate** or **Unsatisfactory**.
22. In order to comply with the legislation, you must achieve at least an **Adequate** overall rating.

Assessment table

Overall rating	
Excellent	<ul style="list-style-type: none">• Excellent in at least 3 characteristics, 2 of which must be Effective governance and Robust performance management.• No more than 1 adequate rating and no unsatisfactory ratings.
Good	<ul style="list-style-type: none">• Good or excellent in at least 3 characteristics, 2 of which must be Effective governance and Robust performance management.• No unsatisfactory ratings.
Adequate	<ul style="list-style-type: none">• Adequate, good or excellent in at least 3 characteristics, 2 of which must be Effective governance and Robust performance management.• No more than 1 unsatisfactory rating in the other characteristics.
Unsatisfactory	<ul style="list-style-type: none">• Unsatisfactory in Effective governance or Robust performance management, or more than 1 characteristic.

23. Remember, when you apply these standards, you should be proportionate in your approach. It is the adequacy of your FOI approach and arrangements, and the outcomes they deliver that is important, not how sophisticated or detailed they are. For example, where the criteria call for something to be done “routinely”, for some organisations annually is routinely enough, while for others it may be monthly.

What next?

Work plan

24. Reflect on your evaluation and develop an appropriate work plan using the **Improvement Action Plan**. This may be a plan to improve your rating or a maintenance plan to ensure you maintain current standards. **How to carry out a self-assessment** gives you more details about this.

Help and advice

25. Contact our Policy and Information Team for further advice and guidance on using the Self-assessment toolkit on 01334 464610 or via enquiries@itspublicknowledge.info.

Effectiveness performance matrix

Please note for printing, this page is A3 size but it will print as A4 if sent to an A4 printer

	Excellent	Good	Adequate	Unsatisfactory
Effective governance of the FOI function	<ul style="list-style-type: none"> The authority clearly demonstrates a commitment to openness and accountability FOI responsibilities at strategic and operational levels are assigned to named individuals or posts, and widely known Non-compliance is specifically included in organisational risk management processes The FOI function is well-resourced with effective procedures in place for escalating issues and ensuring continuity 	<ul style="list-style-type: none"> The authority's commitment to openness and accountability can generally be demonstrated FOI responsibilities at strategic and operational levels are assigned to named individuals or posts but not widely known Non-compliance is generally incorporated in organisational risk management processes Procedures are in place for escalating issues with sufficient resources available if required in the event of FOI staff absence 	<ul style="list-style-type: none"> Openness and accountability meet minimum requirements as per the Section 60 Code FOI responsibilities at strategic and operational levels are generically or informally assigned and not widely known Non-compliance is occasionally covered in organisational risk management processes Issues can be escalated if necessary and arrangements can be made to cover absence 	<ul style="list-style-type: none"> There is little or no evidence of the authority's commitment to openness and accountability FOI responsibilities at strategic and operational level are not assigned Non-compliance is not considered as part of organisational risk management processes There is no procedure for escalating issues and insufficient resources to cover absence
Robust performance management	<ul style="list-style-type: none"> FOI targets cover several stages of request handling, to support prompt responses and identify causes of delays Performance against targets is routinely monitored, and reported on a regular basis to senior management Trends are highlighted, causes identified, actions taken and outcomes reviewed There is a clear understanding of the importance of complying with statutory timescales and the consequences of failure 	<ul style="list-style-type: none"> FOI targets include at least two stages of request handling including issuing of response, to identify causes of delays Performance against targets is generally monitored, and periodically reported to senior management Actions are usually taken to resolve issues in response to failure to meet targets There is a general awareness of the importance of complying with statutory timescales and the consequences of failure 	<ul style="list-style-type: none"> FOI performance is measured only against statutory timescales for responding Performance against statutory timescales is generally monitored, and occasionally reported to senior management Actions are sometimes taken, in response to failure to meet statutory timescales The need to comply with statutory timescales is acknowledged but there is limited awareness of the consequences of failure 	<ul style="list-style-type: none"> FOI performance is measured only through submitting statistics to the Commissioner Performance is not monitored and not reported to senior management No action taken to resolve poor performance unless required by the Commissioner There is a lack of understanding of the importance of complying with statutory timescales and the consequences of failure
Communication and collective responsibility	<ul style="list-style-type: none"> All staff understand their role in supporting the authority's compliance with FOI All staff can recognise an FOI request and know what to do if they receive one There is a strong culture of communication and collaboration between departments to enable effective management of FOI Knowledge and lessons learned in relation to handling of FOI requests are regularly and routinely shared across the authority 	<ul style="list-style-type: none"> Staff generally understand their role in supporting the authority's compliance with FOI The majority of staff can recognise an FOI request and know what to do if they receive one There are clear lines of communication and routine contact between departments in relation to the management of FOI Knowledge and lessons learned in relation to handling of FOI requests are periodically shared across the authority 	<ul style="list-style-type: none"> Staff generally understand how FOI applies to the authority but it is considered to be the responsibility of particular individuals or teams Only some staff can recognise an FOI request and know what to do if they receive one Staff in different departments communicate as and when required in relation to the management of FOI Lessons learned from specific cases in relation to handling FOI requests are shared across the authority on an ad hoc basis 	<ul style="list-style-type: none"> The majority of staff have little or no understanding of FOI or who is responsible for ensuring the authority's compliance Only FOI staff can recognise a request or know what to do if they receive one There is little or no direct communication between departments in relation to the management of FOI There is little or no knowledge sharing in relation to handling of FOI requests
Investment in resources and training	<ul style="list-style-type: none"> All staff take regular training on FOI including responding to requests, proactive publication and records management Attendance at external training and events is included in development plans for all FOI staff Electronic systems used by the authority to log, monitor and report on requests are effective, maintained and regularly updated Performance management and monitoring often leads to investment in FOI training and resources 	<ul style="list-style-type: none"> All staff are given regular guidance on FOI including responding to requests, proactive publication and records management Attendance at external training or events is available on request to all FOI staff Electronic systems used to log, monitor and report on requests are adequate for the authority's size and level of FOI activity Performance management and monitoring sometimes leads to investment in FOI training and resources 	<ul style="list-style-type: none"> FOI training is provided at induction but no other training or guidance is given to all staff Senior FOI staff attend external training or events occasionally, when resources allow Requests are logged, monitored and reported on using basic solutions (e.g. spreadsheets) Investment in FOI training and resources is usually only made in response to interventions by the Commissioner 	<ul style="list-style-type: none"> No FOI training or guidance is provided to staff other than those in the FOI team FOI staff generally do not attend external training or events Requests are not routinely logged or monitored, and only reported on through submitting statistics to the Commissioner No new investment is made in FOI training and resources

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info

© Scottish Information Commissioner 2020

You may use and re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence v3.0. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>