

<b>Report to:</b>	QSMTM Q4
<b>Report by:</b>	Helen Gardner-Swift, Head of Corporate Services (HOCS) Liz Brown, Finance and Administration Manager (FAM)
<b>Meeting Date:</b>	29 April 2021
<b>Subject/ Title:</b> (and VC no)	Information Requests and Requests for Review Report and Assurance Statement 2020-21 VC149065
<b>Attached Papers</b> (title and VC no)	Summary table, exemptions and exceptions applied, outcomes of requests

## Purpose of report

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1. This Committee Report (CR) is required under the Key Document C1 Governance Reporting Arrangements and its purpose is to inform the Senior Management Team (SMT) about requests for information and requests for review received and dealt with in Q4 of 2020-21, the related cumulative statistics for 2020-21 and provide the related assurance.

## Recommendation and actions

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2. It is recommended that:
  - (i) the SMT notes the contents of this CR
  - (ii) the SMT notes that the information in this CR has been uploaded to the FOI and EIR Statistics Portal
  - (iii) the publication arrangements set out in paragraph 39 are agreed.

## Executive summary

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### Requests for information

3. As a Scottish public authority we have statutory obligations to respond to requests we receive for information. Requests and request for reviews are forwarded, on receipt, to the most appropriate member of staff for a response. We maintain a record of all requests in our case management system.
4. Our target response timescales are set out in the Key Document C7 Performance and Quality Framework 2020-21.

### Subject Access Requests

5. Subject access request statistics are reported separately.

### Volumes of requests

6. Any requests categorised as joint FOISA/EIRs have been included in both the FOISA and the EIR numbers. The attached summary table analyses the statistics in the same way. This reflects the requirement on the FOI portal when entering our statistics and, therefore, ensures consistency of reporting.

## Requests for information and requests for review received

7. In Q4, 22 requests were received as follows:

- 20 requests under FOISA
- 0 requests under EIRs
- 2 requests for review

8. RFIs & RFRs received in comparison to last year:

	2019-20	2020-21	% increase/decrease
Number received Q1	13	14	7%
Number received Q2	20	24	20%
Number received Q3	20	11	45%
Number received Q4	21	22	5%
Total	74	71	4%

## Requests for information analysis

9. RFIs dealt with under FOISA and EIRs by quarter:

	2019-20	2020-21 Q1	2020-21 Q2	2020-21 Q3	2020-21 Q4	2020-21 Total
Total received	68	12	19	11	20	62
Total closed	68	14	20	9	21	64

10. There were 3 open cases from 2019-20 which were carried forward to 2020-21 and 1 case open at the end of Q4 which explains why there are more cases closed than received.

11. For requests received under FOISA and EIRs, the following categories were recorded:

	2019-20		2020-21 Q1	2020-21 Q2	2020-21 Q3	2020-21 Q4	2020-21 Total	
About our functions/services	38	56%	10	9	7	7	33	53%
Application related	17	25%	0	4	1	3	8	13%
Misdirected - sent to us in error, asking for information which is likely to be held by other authorities	11	16%	2	6	1	10	19	31%
Other	2	3%	0	0	2	0	2	3%
Total	68	100%	12	19	11	20	62	100%

12. Requests for information that are application related can be particularly time consuming – however, there was a 50% reduction in this type of request in 2020/21.

13. There was a 50% increase in misdirected requests, 9 of which were related to COVID-19. As a result of these requests, we have provided guidance on our COVID-19 Information Hub about where to find information published by the Scottish Ministers, NHS Scotland, etc. on the pandemic.

14. For requests closed under FOISA and EIRs, the following outcomes were recorded:

	2019-20		2020-21 Q1	2020-21 Q2	2020-21 Q3	2020-21 Q4	2020-21 Total	%
Information provided in full	16	24%	2	2	0	3	7	11%
Information partially supplied	21	31%	3	3	2	6	14	22%
Information not held	18	26%	4	12	3	9	28	44%
Information refused (exempt)	8	12%	1	2	1	1	5	8%
Clarification not provided	0	0%	1	0	1	0	2	3%
Request withdrawn	0	0%	1	1	1	2	5	8%
Excessive costs	0	0%	1	0	0	0	1	1%
Vexatious	0	0%	0	0	0	0	0	0%
Repeated request	0	0%	0	0	0	0	0	0%
Neither confirm nor deny	1	1%	0	0	0	0	0	0%
Request invalid	4	6%	1	0	1	0	2	3%
<b>Total</b>	<b>68</b>	<b>100%</b>	<b>14</b>	<b>20</b>	<b>9</b>	<b>21</b>	<b>64</b>	<b>100%</b>

15. The performance against our timescale target for responding to requests for information is set out in the table below:

Description	Target	2020-21 Q1	2020-21 Q2	2020-21 Q3	2020-21 Q4	2020-21 Total
Request response: 20 working days or fewer	100%	86%	100%	100%	100%	97%

16. We set ourselves a high target of responding to 100% of requests for information within 20 working days. In 2020-21, we were not able to meet this target and our response rate was 97%. Although it is disappointing that we have not met the target of 100%, the reasons for this are valid and are related to the impact of the COVID-19 pandemic on our organisation.

17. In the first quarter, 2 requests for information took longer than 20 working days to respond to:

- (i) 1 request was received during the period where, legally, we had a maximum of 60 working days to respond. However, despite this extension, our target was not changed from 20 days, and, as the response took longer than 20 working days, this was recorded as missing the target of 20 working days
- (ii) By the time we were able to access our systems to locate the information for another request, the 60 working days maximum had reverted to 20 days and, as the response took longer than 20 working days, this was recorded as missing the target of 20 working days.

18. There was 1 open RFI at 31 March 2021.

### Requests for review analysis

19. Breakdown of requests for review dealt with under FOISA and EIRs by quarter:

	2019-20	2020-21 Q1	2020-21 Q2	2020-21 Q3	2020-21 Q4	2020-21 Total
Total received	6	2	5	0	2	9
Total closed	6	2	3	2	0	7

20. The performance against our timescale target for responding to requests for review is set out in the table below:

Description	Target	2020-21 Q1	2020-21 Q2	2020-21 Q3	2020-21 Q4	2020-21 Total
% of review response: 20 working days or fewer	100%	100%	100%	100%	N/A	100%

21. In 2020-21, we met our target of responding to all requests for review within 20 working days.  
 22. There were 2 open requests for review at 31 March 2021.

### COVID-19 pandemic

23. Our priority as an organisation has been to continue to provide key services and guidance within available resource while safeguarding the health, safety and wellbeing of our members of staff.
24. Since temporarily closing our office premises on 23 March 2020 and putting in place business continuity arrangements, we have maintained operational output within the constraints imposed by limitations on access to our office premises and office systems. This has included responding to requests for information.
25. Our interim policy and Key Document “Covid-19: How the Commissioner will respond to FOI requests during the temporary office closure due to the impact of the Covid-19 pandemic” sets out how the Commissioner aims to comply with requests under the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (the EIRs) during the temporary closure of the office premises due to the Covid-19 pandemic. This interim policy is regularly reviewed.

### Assurance from the Head of Enforcement (HOE)

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26. The HOE has provided assurance to the HOCS that our responses to information requests as outlined above comply with relevant legislation and related guidance.

### Risk impact

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27. We have policies and procedures in place providing detailed guidance on how to respond to requests for information and requests for review. They are regularly reviewed to ensure that they are up to date and that requests are being appropriately handled and responded to.
28. Failure to respond to information requests and reviews within the statutory timescales would have an adverse impact on the Commissioner’s reputation.
29. This CR contributes towards the control measures aimed at reducing the likelihood and impact of risk relating to information governance.

### Equalities impact

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30. There is no direct equalities impact arising from this report.

### Privacy impact

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31. There is no direct privacy impact arising from this report.

## Resources impact

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32. Responding to information requests and reviews can be demanding on staff time due to the research that may be required to identify relevant information and the deadlines for response. However, responding to such requests, within the required timescales is an important function of the Commissioner.

## Operational/ strategic plan impact

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33. The guidance and procedures for handling and responding to requests for information and requests for reviews aim to ensure consistency of approach across the office and improve the efficiency of the process.

## Records management impact (including any key documents actions)

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34. The Key Document C2 Responding to Information Requests: Guidance and Procedures in under review due and the HOCS is the Responsible Manager for this document.
35. The HOE has begun a review of the administration aspects of handling RFIs, including managing and responding to requests for information and requests for reviews. The HOCS is involved in this review and, in due course, will submit a report on any changes to the procedures and the Key Document to the SMT for approval.
36. As a result of the impact of the COVID-19 pandemic, it was not possible to complete this review in 2020-21 and the review has been carried forward into 2021-22 and will be completed as soon as possible.

## Consultation and Communication

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37. QSMTM minute and publication of CR.
38. A report on requests for information and requests for review is included in the Annual Report.

## Publication

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39. This CR and the related papers should be published as follows:
- (i) The CR and the exemptions and exceptions applied table should be published in full
  - (ii) the summary table should be published in full in our Guide to Information/Class 7
  - (iii) the outcome of requests table contains personal data and is withheld on the basis that section 38(1)(b) of FOISA would apply if a request were, at this stage, to be made for the information.