

Report to:	QSMTM
Report by:	Margaret Keyse, Head of Enforcement
Meeting Date:	12 May 2021
Subject/ Title: (and VC no)	Quality Assurance Monitoring Report: Investigations VC150093
Attached Papers (title and VC no)	n/a

Purpose of report

1. To update the Senior Management Team (SMT) on the quality assurance work carried out in relation to cases closed in Q3 of 2020/21.

Recommendation and actions

2. I recommend that SMT:
 - (i) note the contents of this report
 - (ii) agree that this report (including the Appendix) is published in full (see the publication section at the end of the report).

Executive summary

3. In line with Appendix 8 of the [Investigations Handbook](#), cases are reviewed to ensure that investigations comply with the procedures set out in the Handbook. The quality assessment work looks at all aspects of the investigation, from receipt through to approval and issue of the decision and compliance. The assessment looks at the part played by all members of the Enforcement Team and, where relevant, by the Commissioner.
4. The procedures require that, at the end of each quarter, 15 cases closed during that quarter will be selected to be assessed against a number of agreed criteria.
5. The Appendix to this report summarises the outcome of the assessment work. As can be seen, compliance with the Handbook remains exceptionally high. For example, in all relevant cases:
 - (i) applications were acknowledged within two working days
 - (ii) where the case was invalid, advice was given to the applicant on how to make a valid application
 - (iii) information resolution was considered/attempted appropriately throughout the case
 - (iv) the triage note was prepared/updated in line with procedures.
 - (v) in line with natural justice, and taking account of section 45 of the Freedom of Information (Scotland) Act 2002 (FOISA), which makes it a criminal offence to disclose information in certain circumstances, appropriate additional comments were sought from the applicant

- (vi) there was evidence of submissions from public authorities being appropriately challenged
 - (vii) the applicant was kept up to date during the investigation (particularly difficult given the effects of the pandemic and the large number of applications received)
 - (viii) first and second level approval was carried out in a reasonable period
 - (ix) communications with the parties were clear and courteous and
 - (x) correspondence with the public authority, the decision, etc. commented appropriately on practice.
6. The assessment also highlighted good records management practice. In all relevant cases:
- (i) the non-compliance section in WorkPro was completed correctly
 - (ii) correspondence was added to WorkPro as soon as possible
 - (iii) the WorkPro form for the decisions database was accurately completed
 - (iv) decision notices were named properly in Virtual Cabinet.
7. There were some examples of very good practice highlighted in the cases assessed:
- (i) in one case, correspondence between the public authority and the officer also highlighted issues with the authority's publication scheme – this was subsequently resolved
 - (ii) in a complex case, the officer invested time to understand the scope of the applications and clarified this with the applicant before contacting the public authority on the basis that resolution might be possible – it was, and a detailed non-compliance note was recorded
 - (iii) there were a number of examples of officers negotiating with public authorities in order to help applicants – e.g. in relation to accepting a late request for review; treating what was in fact a subject access request as such a request instead of as a FOISA request; changing practice to make it clear that requesters did not need to seek a second request for review before applying to the Commissioner.
8. The assessments have raised a small number of areas where the procedures were not complied with in full. The assessors found one example of each of the following:
- (i) a view should have been sought from the HOE/DHOE before deciding it was not necessary to obtain withheld information prior to allocation
 - (ii) the date of receipt of the application was recorded as being the following day (the application was received late the previous evening)
 - (iii) the letter seeking submissions (the "SL08") should have been better modified to suit the circumstances of the case
 - (iv) formatting issues in the correspondence should have been sorted before sending
9. Once this report has been approved, it will be shared with the Enforcement Team and the team will be asked to note, in particular, the comments in paragraph 8.

10. Despite these (minor) issues, it is important to highlight the high compliance with the Investigations Handbook, particularly given the problems caused by the pandemic.

Risk impact

11. The quality assurance procedures are designed to ensure that investigations are carried out in line with the Investigations Handbook and are carried out to a high standard. As such, the work has a positive impact on risks relating to case journey times and on making robust defensible decisions.

Equalities impact

12. I do not consider that the subject matter of this report affects any of the nine protected characteristics.
13. However, quality assurance work allows us to ensure that investigations are carried out professionally and objectively, regardless of the applicant. It also allows us to highlight and share good practice in our work with those who share protected characteristics.

Privacy impact

14. None arising from this report.

Resources impact

15. The quality assurance work has an impact on the work of the Enforcement Team (principally on the work of the HOE and DHOEs). However, the impact is low and, when weighed against:
 - (i) the benefit of ensuring that investigations are carried out in line with the Investigations Handbook
 - (ii) ensuring that any issues (positive or negative) arising from the work are raised with investigators as part of the performance and development framework
 - (iii) ensuring that the Enforcement Team as a whole can learn from good practiceit is clear that the work is worth doing

Operational/ strategic plan impact

16. This contributes to strategic objective 6: to be recognised as an organisation of independent and trusted experts that is run efficiently, governed effectively and is open and transparent.

Records management impact (including any key documents actions)

17. Not directly applicable, although records management is one of the matters considered during the quality assurance reviews. If the assessment work highlighted any issues with records managements, these would be addressed appropriately.

Consultation and Communication

18. Both DHOEs were consulted in the preparation of this committee report.

19. Once approved, the committee report – and key learning points – will be shared with the rest of the Enforcement Team.

Publication

20. I recommend that this committee report (and Appendix) is published in full

Appendix

Receipt and validation		Yes	No	n/a
1.1	Application acknowledged within two working days?	100%		
1.2	Was view of HOE/DHOE sought appropriately?	27%	7%	67%
1.3	Where view sought, was it given within one week?	27%		73%
1.4	Where case invalid, was reasonable advice given to applicant on how to make a valid application?	20%		80%
1.5	Where case is valid, has the correct validation date been recorded in WP?	67%	7%	27%
Weighting and allocation		Yes	No	n/a
2.1	Was case weighted and allocated to DHOE within one week of being passed to HOE (or DHOE in the absence of the HOE)? ¹	13%	40%	47%
Resolution		Yes	No	n/a
3.1	Was informal resolution considered/attempted appropriately (throughout the case)?	73%		27%
Seeking formal submissions		Yes	No	n/a
4.1	Was the SL08 in line with the requirements of the Handbook?	67%	7%	27%
4.2	Did the SL09 accurately reflect the scope of the investigation?	80%		20%
Investigation		Yes	No	n/a
5.1	Was the triage note prepared/updated in line with procedures?	47%		53%
5.2	In line with natural justice (and taking account of s45 of FOISA), were appropriate additional comments sought from the applicant during the investigation?	60%		40%
5.3	Is there evidence of submissions from public authorities being challenged, where appropriate?	53%		47%
5.4	Was the applicant kept up to date during the investigation?	80%		20%
Approval		Yes	No	n/a
6.1	Did the draft decision have to be returned to the IO for further investigation/following significant alteration (not just to review changes)?	7%	33%	60%
6.2	Was the first level approval carried out in a reasonable period (taking account of other workload and KPIs)?	40%		60%
6.3	Was the second level approval carried out in a reasonable period (taking account of other workload and KPIs)?	40%		60%
Good practice		Yes	No	n/a
7.1	Does the correspondence with the public authority, decision, etc. comment appropriately on practice?	53%		47%
7.2	Has the non-compliance section in WorkPro been appropriately completed?	73%		27%
Compliance		Yes	No	n/a
8.1	Where compliance was required, was this followed up by the IO?			100%
Quality of communications		Yes	No	n/a
9.1	Were the communications with the parties clear and courteous?	100%		

¹ It is continuing to prove difficult to evidence this. This to be reviewed once the review of cases closed in Q4 have been assessed.

Records management		Yes	No	n/a
10.1	Have naming conventions been followed in the WP file?	100%		
10.2	Was correspondence added to WorkPro as soon as possible?	100%		
10.3	Is any withheld information in the file clearly marked in WP?	20%	7%	73%
10.4	Was the WorkPro form for the decisions database accurately completed?	40%		60%
10.5	Are the decision notices (anonymised and non-anonymised) named properly in VC?	40%		60%