

Report to:	SMT
Report by:	Erin Gray, Head of Policy and Information
Meeting Date:	30 June 2021
Subject/ Title: (and VC no)	Website accessibility statements - key document review (VC152486)
Attached Papers (title and VC no)	C2 Accessibility Statement – Commissioner’s website v02 DRAFT (VC152173) C2 Accessibility Statement – Statistics Portal v02 DRAFT (VC152175)

Purpose of report

1. To seek Senior Management Team (SMT) approval of reviewed versions of the Scottish Information Commissioner’s website accessibility statements, following planned review.

Recommendation and actions

2. I recommend that the SMT:
 - (i) approve the updates to the two attached website accessibility statement key documents following their planned reviews
 - (ii) agree the key document recommendations (see the record management section below)
 - (iii) agree the recommendations set out in the publication section of this report.

Executive summary

3. In accordance with the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 (‘the Regulations’), since 23 September 2020 all public sector bodies have been required to ensure any websites they operate are accessible – defined as ‘perceivable, operable, understandable and robust’.
4. In order to meet this legal requirement, any website, intranet or mobile app run by a public body must:
 - (i) meet the international [WCAG 2.1 AA accessibility standard](#) (although there may be valid legal reasons for not meeting accessibility standards); and
 - (ii) publish an accessibility statement that explains how accessible the website or mobile app is.
5. The Regulations build on existing obligations to people who have a disability under the Equality Act 2010, which state that all UK service providers must consider ‘reasonable adjustments’ for disabled people. Making a website accessible means making sure it can be used by as many people as possible. This includes those with impaired vision, motor difficulties, cognitive impairments or learning disabilities and deafness or impaired hearing.
6. Public bodies are responsible for ensuring their websites meet the relevant accessibility requirements, even if they have outsourced support or maintenance to a supplier.

7. Certain types of content are exempt from the Regulations and as a result do not need to be made accessible in order for a site to be compliant. These include:
 - (i) Videos – the WCAG standard requires all videos to have captions and audio description; however, videos published before 23 September 2020 are exempt.
 - (ii) PDFs – PDFs published before 23 September 2018 are exempt but more recent PDFs are not (unless users need them to use a service)
 - (iii) Archived websites - if they are not needed for services the organisation provides and they are not updated
 - (iv) Content on intranets or extranets published before 23 September 2019 - unless major revisions are/were made after that date

How the Regulations will be enforced

8. GDS monitors public sector bodies' compliance on behalf of the Minister for the Cabinet Office. GDS does this by examining a sample of public sector websites every year. GDS can ask for information and request access to intranets, extranets or any public sector website.
9. Public sector bodies must publish an accessibility statement and review it regularly. If GDS decides that a public sector body has failed to publish an accessibility statement or that the accessibility statement is incorrect, it will publish the name of the body and a copy of the decision.
10. The Equality and Human Rights Commission (EHRC) will enforce the requirement to make public sector websites and mobile apps accessible (making them perceivable, operable, understandable and robust). Organisations that do not meet the accessibility requirement, or fail to provide a satisfactory response to a request to produce information in an accessible format, will be failing to make reasonable adjustments. This means they will be in breach of the Equality Act 2010. The EHRC can therefore use their legal powers against offending organisations, including investigations, unlawful act notices and court action.

Accessibility statements and changes proposed

11. The Accessibility Statement bodies publish should reference any issues or content which does not meet the required standard, and any alternative means of accessing the information. The statement should also include:
 - (i) whether the website is 'fully', 'partially' or 'not' compliant with accessibility standards (the website should be described as fully compliant if it meets accessibility standards in full, partially compliant if it meets most requirements, and not compliant if it does not meet most of the requirements)
 - (ii) if it is not fully compliant, which parts do not currently meet accessibility standards and why (for example, because they are exempt or it would be a disproportionate burden to address)
 - (iii) how people can get alternatives to content that is not accessible to them
 - (iv) how to contact the organisation to report accessibility problems - and a link to the website that they can use if they are unhappy with the response they receive
 - (v) Information on how the organisation evaluated the website's accessibility and plans to fix any accessibility problems (this is optional)

12. The Commissioner published one accessibility statement for www.itspublicknowledge.info and one for the statistics portal in September 2020. They are now due for review.
13. Within the Accessibility Statement relating to the Commissioner's website (VC 152173) the changes proposed as part of this planned review are as follows:
 - (i) Changing date that new cookie notice/banner will be in place from April 2021 to 31 August 2021, in 'Non-compliance' section
 - (ii) Changing year we will work with newsletter provider to explore what changes can be made to sign up form from 2021 to 2021-22, in 'Non-compliance' section
 - (iii) Changing expected date that work underway for new website from September 2021 to November 2021, in 'Disproportionate burden' section
 - (iv) Changing 'not likely to be before June 2021' to 'not likely to be before March 2022' in relation to assessment of how our processes in relation to PDFs may support increased accessibility for the website, in 'Disproportionate burden' section
 - (v) Changing references to number of users in 'last year' to 'each year' in various sections
14. Within the Accessibility Statement relating to the Statistics Portal (VC 152175) the changes are as follows:
 - (i) Changing expected date that work underway for new website from September 2021 to November 2021, in 'Disproportionate burden' section
15. As 'approver' for these documents the SMT is invited to approve these revisions to both documents so up to date and accurate statements can be made available on our website, in line with requirements of the Regulations.

Risk impact

16. The Commissioner is the regulator of FOI in Scotland and has functions and duties to fulfil; the Commissioner's website is a key tool in delivery of these functions and duties.
17. As a public body the Commissioner is required to comply with the Regulations and failure to do so may result in enforcement action, as set out in paragraphs 9 – 10 above.
18. The review and update of the accessibility statements will mitigate the potential risk of non-compliance with the statutory/regulatory requirements.
19. The internal work which has been conducted to address remaining non-complaint accessibility issues with the website, and work ongoing to determine if a new website is required, will mitigate strategic and operational risks associated with failing to ensure the public's awareness of access to information rights are adequate, and failing to maintain and develop a website with current, well-managed content in order to meet statutory duties.

Equalities impact

20. The Regulations are designed to address website accessibility issues impacting on people with a range of disabilities. In addition to complying with the Regulations, the Commissioner is also required to comply with the Equality Act 2010 (the 2010 Act). Section 20 of the Act requires the Commissioner to make reasonable adjustments if a disabled person is placed at a substantial disadvantage because of their disability compared with non-disabled people.

This clearly includes making reasonable adjustments to the website to prevent a disabled person being placed at substantial disadvantage.

21. Regulation 11 of the Regulations states that a failure by a public sector body to comply with the accessibility requirement is to be treated as a failure to make a reasonable adjustment. However, there is no obligation to comply with the accessibility requirement if doing so would impose a disproportionate burden (regulation 7(1)). Full detail relating to decision making and the Commissioner's considerations regarding disproportionate burden were included when the accessibility statements were approved in September 2020.
22. It is noted that not all people in Scotland can or wish to use the internet, and as a result the Commissioner provides information in alternative formats including via the enquiries service, wherever possible.

Privacy impact

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

Resources impact

24. There is no additional resource impact arising from this committee report or from the documents submitted for approval.

Operational/ strategic plan impact

25. Work conducted in 2020 to address compliance with the Regulations, and 'discovery' preparatory work for a potential future website replacement was included within operational plans for 2020-21. Ongoing work regarding these is also set out in the operational plan for 2021-22 Both areas of work are required for delivery of aims set out in the Commissioner's Strategic Plan.
26. As noted in September 2020, development and build of a replacement website will be required in order to ensure delivery of the Strategic Plan beyond 2021-22, as it is an essential communication tool for all areas of the Commissioner's work.

Records management impact (including any key documents actions)

27. The documents submitted for approval are key documents and will be updated on the Register of Key Documents, as soon as possible.
28. I am the responsible manager for the documents, and SMT is 'approver'.
29. The updated documents will be published on the accessibility page of the Commissioner's website when relevant key document actions have been completed.

Consultation and Communication

30. The attached papers have been prepared in consultation with the relevant member of the Policy and Information Team on website accessibility, the Head of Corporate Services and Finance and Administration Manager.

31. If approved the new versions of the accessibility statements and this paper will be published on the website.

Publication

32. I recommend that this committee report is published in full.
33. I recommend that the attached papers are withheld in full on the basis that they are exempt from disclosure under section 27(1) of FOISA (Information intended for future publication): the papers will be published once the necessary key document actions have taken place and once the document is in final form (tracked changes accepted and document control sheet updated).