

Report to:	Quarterly Senior Management Team
Report by:	Erin Gray, Head of Policy and Information (HOPI)
Meeting Date:	4 August 2021
Subject/ Title: (and VC no)	Website Appeal Portal (VC154511)
Attached Papers (title and VC no)	None

Purpose of report

1. The purpose of this Committee Report (CR) is to recommend the decommissioning of the appeal portal function on the current website of the Scottish Information Commissioner (the Commissioner).

Recommendation and actions

2. I recommend that the Senior Management Team (SMT) agree that:
 - i. the appeal portal function on the Commissioner's current website is decommissioned as soon as possible and by 18 August at the latest
 - ii. in principle, a new appeal portal service will be put in place when it is possible to do so, while noting that this may not be until after a new website is developed (subject to consideration of the relevant project, budget approval and CR)
 - iii. the appeal form provided for use by those submitting an appeal by email be reviewed for any changes required to enhance its accessibility for those using assistive technology such as screen readers (as set out in paragraph 20 below)
 - iv. this CR is published in line with the "Publication" section at the end of this CR.

Executive summary

About the appeal portal

3. Where a person has made a request for information to a Scottish public authority, and subsequently asked the authority to review its handling of that request, if the person is still not satisfied with the outcome or how it has been handled, they may appeal to the Commissioner.
4. Currently, appeal may be made by email, post, or via the appeal portal on the Commissioner's website (the portal). The appeal portal enables people to submit appeals to the Commissioner online, and provides steps to support the user to submit a valid appeal. Users are asked a range of questions and provided with the opportunity to submit relevant information and documentation in support of their appeal. Relevant information is then passed through automatically to the Commissioner's case management system so validation of the appeal can begin.
5. The current website and portal are hosted and maintained by a website contractor, using their proprietary .net based content management platform, which is set to be

decommissioned by 2023. Since 2020 the Commissioner has intended to develop a new website, which will include an appeal portal facility, when it is possible to do so, and has been working toward securing relevant resources and information to enable this.

Issues identified with the portal

- 6. [Redacted]
- 7. [Redacted]
- 8. [Redacted]
- 9. [Redacted]

Relevant factors considered in determining course of action required

- 10. In considering the issues identified and potential courses of action, the following factors are relevant:
 - i. Nature of data included in the appeal portal:
 - (a) As set out in the Commissioner's privacy notice, the appeal portal contains personal information/data provided to the Commissioner by people who are in the process of submitting or have recently submitted appeals via the portal (data is removed 30 days after it has been edited or accessed). This includes names, contact details, and may include narrative and documents regarding the nature of information requests they have made to an authority, which can include a range of personal data, including special category personal data.
 - (b) [Redacted]
 - ii. [Redacted]

[REDACTED]

[REDACTED]

iii. [REDACTED]

[REDACTED]

[REDACTED]

iv. Impact of appeal portal availability on the Commissioner's resource and ability to discharge functions: The Commissioner is required to accept appeals regarding FOI requests; however, the appeal portal itself is not a service the Commissioner is required to provide. Currently 30 – 40% of appeals made to the Commissioner are made via the appeal portal. Appeals made via the appeal portal are: more likely to include all relevant information to enable validation of the appeal to take place; more likely to be valid as a result of information provided through the portal submission process; automatically filed in a new case in the Commissioner's case management system, reducing time required to begin the validation process.

As a result, the appeal portal reduces work required in processing and validating 30-40% of appeals received.

v. Impact of appeal portal availability on potential applicants: The appeal portal is used by 30 – 40% of those making appeals to the Commissioner, is accessed by approximately 100 users per year, and supports those who use it to ensure their appeal considers the various factors which would affect its validity. However, appeals can be made by email or post (and were exclusively so before launch of the appeal portal), meaning that on and offline options are available for use by applicants whether the appeal portal is available or not. It is not anticipated that the decommissioning of the portal would reduce or create barriers for applicants in making their appeals, other than the inconvenience of a change for those who usually use the appeal portal as they establish a new way to make their appeals.

vi. Actions involved in decommissioning the appeal portal: Following liaison with website contractor and the Commissioner's IT services provider, it is clear that the appeal portal can be decommissioned relatively quickly in technical terms, and within existing available support hours (rather than requiring additional cost). The steps that will include the following:

(a) **Preparation:**

- date set for the closure of the appeal portal

- all communications for relevant stakeholders prepared and in place
- content of the portal (text and logic flows) mapped for future reference when creating a new appeal portal

(b) Initial closure:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- removal of log in function for external users, while still ensuring the Commissioner's staff have access
- redirection of users attempting to use the appeal portal to an alternative web page directing users to relevant information and ways to appeal
- communicating with any other relevant stakeholders.

(c) Liaison with those who have data in the portal:

- data in the appeal portal will be held for one week following the start of the decommissioning process
- all applicants with data in the appeal portal will be contacted by email advising them how to complete their appeal if in process, or access any information in the appeal portal which they may not have copies of, before this information is deleted.

(d) Full decommissioning:

- one week after initial closure, the website contractor will remove all information in the appeal portal and confirm in writing that this has been done, that the information securely destroyed and that no-one can access this information
- the remaining structure of the appeal portal will be decommissioned.

vii. Development of future website:

- (a) In June 2020 the Commissioner was made aware that a new website would be required, as the current website platform was set to be decommissioned by 2023 and since then the Commissioner has been working to secure relevant funding and information to progress a project for a new website.
- (b) In April 2021 a discovery project to determine the priorities and requirements for a new website was conducted, which showed that users valued the appeal portal service, but highlighted issues with its usability and accessibility.
- (c) In June 2021 the Commissioner was informed that support from the current website contractor would cease by the end of 2021 and, therefore, an alternative website would be required by that time rather than by 2023.
- (d) External support is being sought to determine the best solution and to be able to meet the challenge of providing a new website within the shortened timescale
- (e) The development of a new appeal portal service will be considered as part of the project for a new website.

Recommendations

11. Taking account of the matters set out above, I recommend that the appeal portal function on the current website is decommissioned (including links to the Commissioner's systems, and all data included in the portal) as soon as possible.
12. I also recommend that a new appeal portal service be developed and put in place when it is possible to do so, while noting that this may not be until after a new website is developed.

Risk impact

13. The risk impact of decommissioning the appeal portal has to be weighed up - taking account the benefits of the appeal portal and the risks associated with keeping it in place.
14. The appeal portal makes submitting valid appeals to the Commissioner easier, and helps to reduce the work required to establish the validity of appeals made. It also helps with the management of case journey times. In turn, this can help to ensure that case journey times are appropriate.
15. [REDACTED]
16. As this CR relates only to the appeal portal, any risk impact relating to the remainder of the website will be assessed and considered separately as further work on this is undertaken.
17. A new appeal portal may be put in place in the future. However, as there is currently no definite project timescale for this, it would not be appropriate to take account of this in assessing the risk impact of decommissioning the existing appeal portal.

Equalities impact

18. Removal of the appeal portal is not expected to disproportionately impact any person with a protected characteristic disproportionately, as mechanisms to make appeals to the Commissioner (by email and post) will remain available, as set out in paragraph 9 (v). The appeal portal does not offer specific advantages which are likely to impact on a person with a protected characteristic (as assessed in the relevant pre-screening to determine whether an equality impact assessment is required).
19. As noted in the Commissioner's [website accessibility statement](#), the current appeal portal does have some aspects which do not meet website accessibility criteria as a result of platform restrictions, and so in its current form may cause issues for some people with a disability. When a new appeal portal is launched, this issue will be addressed to ensure required accessibility standards are met.
20. It is recommended that the appeal portal application form (a Word document provided for use by those applying by email) be reviewed to ensure it is as accessible as possible, for any person using assistive technology such as a screen reader.

Privacy impact

21. The actions recommended in this report would reduce impact on privacy rather than increase it. Removing the appeal portal and data within it will ensure no personal data is held in it. No new organisations or individuals will have access to the data in the process of decommissioning the appeal portal and will not be processing the data in the appeal portal in any new way.

Resources impact

22. Decommissioning the appeal portal can be conducted within existing support hour services with the Commissioner's website and IT support providers, so is not likely to incur unbudgeted costs.
23. The appeal portal being unavailable is likely to impact on capacity of the Commissioner's validation staff until an alternative portal can be implemented, as the appeal portal reduces workload relating to processing and validation of appeals made to the Commissioner (as discussed in paragraph 9 (iv) above).
24. Development of a new appeal portal in a condensed timeline is likely to incur costs, but the nature and scale of these are not yet known, and will be determined as part of work to develop a new website for the Commissioner, which will be addressed in the related committee reports.

Operational/ strategic plan impact

25. The appeal portal supports delivery of the following objectives as set out in the Commissioner's Strategic Plan 2020-24:
- i. Increase knowledge and understanding of FOI rights
 - ii. Enable and support high standards of FOI policy and practice
 - iii. Be recognised as an organisation of independent and trusted experts that is run efficiently, governed effectively and is open and transparent
26. The decommissioning of the appeal portal will have an impact on these objectives, and the related items in the Commissioner's Operational Plan 2021-22 (in relation to validation of applications, and maintenance of the website).
27. The additional work involved in decommissioning the appeal portal and potential increase in applications made without support of the appeal portal to increase likelihood of validity may also impact on capacity to deliver the operational plan in general, to a limited degree.
28. Appeals can still be submitted by post and email.

Records management impact (including any key documents actions)

29. The appeal portal procedures key document will no longer be required. In addition the relevant templates will need to be updated – this work will be undertaken within the Enforcement Team and will be planned and undertaken in full to ensure they are completed timeously.

Consultation and Communication

30. This CR has been prepared in consultation with relevant members of the SMT, a Deputy Head of Enforcement and Finance and Administration Manager, following advice and guidance from the relevant contractors.
31. If a decision is made to close the appeal portal, a range of stakeholders will need to be advised of the closure – including staff, current and potential appeal portal users and public authorities. Key messages, mechanisms and timing for this will be planned in detail separately.

Publication

32. I recommend that a redacted version of this committee report is published and that paragraphs 6, 7, 8, 9, 10 (i)(b), 10 (ii), (iii), (vi) (b) (first 2 bullet points), and 15 are withheld on the basis that the exemption in section 30(c) of the Freedom of Information (Scotland) Act 2002 (FOISA) would apply if a request were, at this stage, to be made for the information, given that release of this information would, or would be likely to prejudice substantially the conduct of public affairs.

