

Report to:	MSMTM
Report by:	Helen Gardner-Swift, Head of Corporate Services (HOCS)
Meeting Date:	13 September 2022
Subject/ Title: (and VC no)	CR Annual Report 2021-22 Draft Performance Report VC174872
Attached Papers (title and VC no)	ARA 2021-22 Draft Performance Report VC170250

Purpose of report

1. The purpose of this Committee Report (CR) is to consider and finalise the draft Performance Report to be included in the Annual Report 2021-22 (ARA 2021-22)

Recommendation and actions

2. I recommend that
 - (i) the Senior Management Team (SMT) consider and approve the draft Performance Report (which will remain as a draft during the audit process) subject to any further comments made by the SMT at the meeting and during the audit process
 - (ii) the SMT agree the publication arrangements concerning this report, set out in paragraph 20.

Executive summary

ARA 2021-22

3. The Performance Report forms part of the Annual Report and the Scottish Information Commissioner (the Commissioner) must comply with the Financial Reporting Memorandum 2021-22 (FReM) requirements issued by HM Treasury when preparing the draft Performance Report.
4. The draft Performance Report must be signed off by the SMT in advance of the annual audit carried out by the auditor.
5. The annual audit is due to commence during the week of 17 October 2022 and the Advisory Audit Board meeting is due to take place in November 2022.
6. Once audited and finalised the ARA 2021-22 is due to be laid in Parliament by 31 December 2022.

Statutory general report on the exercise of functions

7. The Commissioner must lay annually before the Scottish Parliament a general report on the exercise of the functions conferred on him under the Freedom of Information (Scotland) Act 2002 (FOISA), Section 46. Each report must be laid by 31 October in each reporting year.
8. The general functions of the Commissioner are set out in FOISA, Section 43.
9. In previous years, it has been possible to lay the Annual Report prior to 31 October and, if so, this ensures that this statutory reporting requirement is met. However, for the ARA 2021-22, this will not be possible due to the audit timetable being moved to later in the year.

Therefore, it will be necessary to prepare and lay an additional general report on the exercise of the functions conferred on the Commissioner. Similar to the draft Performance report, this additional report on the general functions should be approved by the SMT in due course.

Risk impact

10. The Commissioner must lay an Annual Report and Accounts by 31 December each year.
11. The draft Performance Report will form part of the Annual Report and the preparation of this in accordance with the FReM, and the laying of the ARA 2021-22 in Parliament, mitigate against the risk of not complying with this requirement.

Equalities impact

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

Privacy impact

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

Resources impact

14. The preparation of the draft Performance Report is carried out within existing resources.

Operational/ strategic plan impact

15. Each year the Commissioner publishes an operational plan setting out the organisation's planned activities, timetable for delivery and how each activity supports the Commissioner's vision and strategic aims. Targets and key performance indicators (KPIs) are also set.
16. In accordance with the FReM requirements, the draft Performance Report reports on the performance of the Commissioner in the reporting year.

Records management impact (including any key documents actions)

17. In due course, the Performance Report (when finalised) will form part of the published Annual Report 2021-22.

Consultation and Communication

18. The Commissioner, the SMT and members of the Corporate Services, Policy and Information and Enforcement teams have been involved in the preparation of the draft Performance Report.
19. MSMTM minute.

Publication

20. I recommend that this CR is published in full but that draft Performance Report is withheld on the basis that the exemption in sections 30(b)(i) and (ii) of the Freedom of Information (Scotland) Act 2002 would apply if a request were, at this stage, to be made for the information.