

<b>Report to:</b>	QSMTM Q4
<b>Report by:</b>	Margaret Keyse – Head of Enforcement (HOE)
<b>Meeting Date:</b>	26 May 2022
<b>Subject/ Title:</b> (and VC no)	The Prescribed Persons (Reports on Disclosure of Information) Regulations 2017 VC187128
<b>Attached Papers</b> (title and VC no)	Appendix A - report to be published on the Scottish Information Commissioner's website

## Purpose of report

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1. The purpose of this report is to provide an annual report as required by The Prescribed Persons (Reports on Disclosure of Information) Regulations 2017 and the Governance Reporting Arrangements.

## Recommendation and actions

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2. I recommend that
  - (i) the Senior Management Team (SMT) notes the committee report
  - (ii) the report set out in Appendix A is approved for publication on the Scottish Information Commissioner's (Commissioner) website
  - (iii) the committee report is published in accordance with paragraph 20

## Executive Summary

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### Statutory requirements

3. Under section 43F of the Employment Rights Act 1996, whistleblowers may qualify for employment protections if they disclose information to a "prescribed person". The list of prescribed persons is set out in the Schedule to the Public Interest Disclosure (Prescribed Persons) Order 2014 and the Scottish Information Commissioner (the Commissioner) is a "prescribed person" for the purpose of The Prescribed Persons (Reports on Disclosure of Information) Regulations 2017 (the Regulations).
4. The Regulations specify requirements for prescribed persons to report annually on disclosures of information that they receive from workers.

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5. The report must contain the following, without including any information in the report that would identify a worker who has made a disclosure of information, or an employer or other person in respect of whom a disclosure of information has been made:
  - the number of disclosures of information made by workers to the Commissioner in the twelve month period which the Commissioner reasonably believes are qualifying disclosures falling within the matters for which the Commissioner has been prescribed

- out of the total number of qualifying disclosures made, the number of those disclosures where the Commissioner decided to take further action in that period (whether or not that action was actually undertaken within that period).
  - an explanation of the Commissioner's functions, objectives and statutory powers.
  - a summary of the action taken by the Commissioner in respect of qualifying disclosures of information during the reporting period.
  - a summary of how the disclosures have impacted on the Commissioner's ability to perform its functions and meet its objectives during the reporting period.
  - an explanation of the Commissioner's functions and objectives.
6. The relevant reporting period is 1 April 2022 - 31 March 2023 and there is no requirement to report on any disclosures which the relevant prescribed person reasonably believes do not fall within the matters for which it is prescribed.
7. The report must be published within six months of the end of the reporting period;
- (i) by placing the report on its website, or
  - (ii) in such other manner as the relevant prescribed person considers appropriate for bringing the report to the attention of the public.
8. I am responsible for the Whistleblowing Policy: Prescribed Person – Scottish Information Commissioner and related procedures.

### **Report for period 1 April 2022 - 31 March 2023**

9. There were no disclosures from workers received during the reporting period that were qualifying disclosures falling within the matters in respect of which the Commissioner is so prescribed.
10. The report set out in Appendix A should be published on the Commissioner's website.
11. The report must be published on the Commissioner's website by 30 September 2023.
12. In addition to publishing the report on the website, the penultimate and final paragraphs of the report can also be included in our Annual Report and Accounts 2022-23, if required.

### **Risk impact**

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13. The required statutory report must be made and published in accordance with the statutory requirements and this report mitigates against the risk of the Commissioner not complying with his statutory duties.

### **Equalities impact**

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14. There is no direct privacy impact.

### **Privacy impact**

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15. There is no direct privacy impact.

## **Resources impact**

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16. There is no additional impact.

## **Operational/ strategic plan impact**

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17. There is no additional impact.

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

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18. There is no additional impact.

## **Consultation and Communication**

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19. Deputy Heads of Enforcement were consulted in the preparation of this committee report.  
Annex A will be published on the Commissioner's website.

## **Publication**

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20. I recommend that this committee report is published in full.

## **APPENDIX A - report to be published on the Scottish Information Commissioner's website**

### **The Prescribed Persons (Reports on Disclosure of Information) Regulations 2017– report by the Scottish Information Commissioner.**

The Scottish Information Commissioner (the Commissioner) is the independent public official responsible for promoting and enforcing Scotland's freedom of information law:

- The Freedom of Information (Scotland) Act 2002 - is an Act of the Scottish Parliament which gives everyone the right to ask for any information held by a Scottish public authority
- The Environmental Information (Scotland) Regulations 2004 - comes from a European Directive on access to environmental information. The EIRs give everyone the right to ask for environmental information held by a Scottish public authority (and some other bodies)
- The Commissioner can also receive applications about the view and discovery provisions of the INSPIRE (Scotland) Regulations 2009. These regulations also come from a European Directive, and create a right to discover and view spatial datasets (e.g. map data) held by Scottish public authorities.

The main functions of the Commissioner are: investigating appeals, promoting the public's right to know, promoting good practice to public authorities and intervening when public authority practice is not compliant with freedom of information law.

Under section 43F of the Employment Rights Act 1996, whistleblowers may qualify for employment protections if they disclose information to a "prescribed person". The Commissioner is a "prescribed person" and must report annually on the number of relevant workers' disclosures under The Prescribed Persons (Reports on Disclosure of Information) Regulations 2017 (the Regulations).

For the period 1 April 2022 – 31 March 2023 there were no relevant disclosures from workers falling within the Regulations.