

Report to:	Quarterly Senior Management Team Meeting
Report by:	Head of Policy and Information
Meeting Date:	26 January 2022
Subject/ Title:	Interventions Activity Reporting Q3 2021-22 (VC 161180)
Attached Papers	Interventions Activity Report Q3 2021-22 (VC 162938)

Purpose of report

- To report on interventions activity by the Scottish Information Commissioner ('the Commissioner') across Q3 (October - December) 2021-22 to the Senior Management Team (SMT), as required by the Commissioner's Governance Reporting Requirements.

Recommendation and actions

- I recommend that the SMT:
 - Note the attached report and activity it sets out
 - Agree that this Committee Report and the attached paper can be published as set out in the publication section below.

Executive summary

Interventions

- The Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 both give the Scottish Information Commissioner ("the Commissioner") the power to act where a public authority is not complying with requirements they set out, or with the Scottish Ministers' Codes of Practice. These powers include:
 - promoting good practice
 - assessing whether an authority is following good practice
 - issuing practice recommendations where it appears to the Commissioner that an authority is not complying with the Codes of Practice
 - issuing enforcement notices where the Commissioner is satisfied that a public authority has failed to comply with FOI law.
- An "intervention" is the term used to describe the action which the Commissioner will take proactively to improve the practice of individual authorities more generally, rather than in relation to the outcome of a specific information request via an application investigation. The Commissioner's [Intervention Procedures](#) set out the specific detail of how and when interventions will be conducted.

Reporting on interventions activity

5. In 2020-21 the Commissioner began reporting on intervention activity via a report to the SMT. Initially the report was annual, and from 2021-22 reports will be made quarterly.
6. These reports are provided in line with policy set out in the Commissioner's [Intervention Procedures](#) and [Enforcement Policy](#).

Intervention caseload during Q3 2021-22

7. Intervention activity increased again in this quarter, due to the opening of 9 new cases, 7 of which related to compliance with timescales. A further 5 new interventions were agreed at the Quarterly Interventions Meeting in early December but had not been opened by the end of the quarter.
8. Meanwhile, one Level 3 intervention with Aberdeenshire Council (opened at the end of September) was escalated to Level 4 in early November, when the decision was taken to issue a Practice Recommendation.

Active interventions	Jan to Mar 202	Apr to Jun 2021	Jul to Sep 2021	Oct to Dec 2021
Level 1	17	23	6	11
Level 2	5	5	6	7
Level 3	1	1	2	1
Level 4	0	0	0	1
TOTAL	23	29	14	20

9. Please note: these figures reflect the number of interventions that were active at any point during each three-month period (quarter), rather than only those that were opened in that quarter. Therefore, in many cases, the same intervention will be counted in more than one quarter, and the sum of the quarterly totals has no relevance.

Risk impact

10. Timely and accurate reporting on enforcement activity is necessary to ensure the Commissioner demonstrates good practice and governance and mitigate strategic risk to the Commissioner's reputation and public confidence in the role.
11. Reporting on interventions also contribute to mitigation of operational risks, including by supporting efforts to ensure the Commissioner demonstrates robust and defensible decisions; ensuring the organisation engages properly with stakeholders; and ensuring we have appropriate and effective policies in place for every aspect of our business.

Equalities impact

12. There are no direct equalities impacts arising as a result of the recommendations in this report.

Privacy impact

13. There is no new direct privacy impact arising from this committee report or attached paper.

Resources impact

14. Interventions are delivered within planned operational resources (though no specific or dedicated resources are provided or allocated for this function). As they are provided within existing resource, then at a time of high applications (as we are currently experiencing) the resource which can be applied to interventions is necessarily more limited. Furthermore, fulfilling the intervention function will necessarily divert resource away from other workstreams, including applications casework.

Operational/ strategic plan impact

15. Reporting on intervention activity is required as set out in the current operational plan, and governance reporting arrangements.
16. Reporting on intervention activity contributes to the following strategic objectives as set out in the Strategic Plan 2020-2024:
- (i) Enable and support high standards of FOI policy and practice (Strategic Aim 2)
 - (ii) Be recognised as an organisation of independent and trusted experts that is run efficiently, governed effectively and is open and transparent (Strategic Aim 6)

Records management impact (including any key documents actions)

17. None identified – other than any updates required to the Commissioner’s Governance Reporting Arrangements.

Consultation and Communication

18. The report will be published on the Commissioner’s website and content highlighted in the Commissioner’s newsletter where appropriate.

Publication

19. I recommend that this committee report and attached report be published in full.