

Officeholders – Draft Strategic Plans 2024-2028

21 March 2024

Reference: SPCB (2024) Paper 23

Executive summary

1. The SPCB is invited to consider the draft strategic plans for 2024-2028 received from—
 - (a) the Scottish Information Commissioner, and
 - (b) the Commissioner for Children and Young People.
2. Their draft Strategic Plans are attached at Annexes A and B.
3. This is the final paper covering the officeholders draft Strategic Plans.
4. The SPCB will also be meeting with both the officeholders on 21 March 2024 as part of the SPCB's annual meetings with officeholders.

Background

5. The officeholders have a statutory duty to lay Strategic Plans before the Parliament for each 4-year period setting out how they will perform their functions. Before a plan can be laid, the officeholders must provide a draft of their plan and invite comments from the SPCB and any other body or person the officeholder considers appropriate, including a committee of the Parliament.
6. The officeholders have been laying plans before the Parliament since 2010. The attached draft plans cover the period 1 April 2024 to 31 March 2028. Each plan is required to set out (a) the objectives and priorities for the 4-year period, (b) how they will be achieved, (c) a timetable and (d) estimates of the costs.

Officeholders' Draft Strategic Plans

Scottish Information Commissioner

7. The Scottish Information Commissioner is David Hamilton who took up office on 16 October 2023 for 6 years.
8. The Commissioner's role is to investigate applications for people seeking the disclosure of information and to issue legally enforceable decisions, promote good practice amongst public authorities and provide the public with information on their rights.
9. The Commissioner is based in St Andrews and employs 25.2 FTE members of staff.
10. Due to a 270 case backlog, the SPCB recently approved contingency funding for two temporary Grade 4 members of staff for 2 years to clear the backlog. The Commissioner has been invited to update the SPCB on progress once the additional staff have been recruited.
11. The Commissioner stated in his foreword that the next four years will see continued challenges to the FOI regime with reform of some sort inevitable and the extension of legislation to more public bodies a certainty and that a lack of resources has been his staffs' biggest stressor and complaint. The Commissioner's draft Strategic Plan was drafted prior to the SPCB approving funding for additional staff.
12. The Commissioner's Vision is that the impact of Freedom of Information is increased, being recognised and valued as the key enabler of openness and transparency of public functions in Scotland, enhancing people's right to access the information that matters to them.
13. The Commissioner has six Strategic Objectives which are set out below along with the general approach the Commissioner will take to meet his objectives

1 - increase knowledge and understanding of FOI rights

Polling from 2022 shows that people's awareness of FOI had slipped 8 points to 63% with the use of the legislation by requesters being quite niche and requires more mainstreaming. There is evidence to suggest that awareness of FOI rights is lower among some groups, including young people. The Commissioner will therefore continue to collect data to identify common barriers and engage with target groups such as community councils, young people and campaigners. He will raise awareness of FOI rights, and support and encourage their use, inspiring with practical examples of how FOI and EIR can inform communities, support engagement and, ultimately, improve life in Scotland. His Policy and Information team will continue to communicate about FOI in a clear, understandable and accessible way, enabling FOI rights to be utilised by all groups in society. They will support and encourage organisations that are subject to FOI to do the same.

2 - enable and develop high standards of FOI law, policy and practice

The office will continue its work in both seeking and contributing to regular reviews of FOI law as well as supporting implementation of changes which emerge from such reviews.

A revision of the Scottish Ministers' Codes of Practice under FOISA is recognised as essential and inevitable and the office will be expected to provide expert advice and opinion on its development. The office will work with the Scottish Government and other interested partners to develop a suite of options for change, some of which may require primary legislation.

Where appropriate, they will use their power to submit Special Reports to Parliament to raise other issues where there is no other more appropriate forum available.

3 - develop Scottish public sector culture and practice where the disclosure of information is routine, valued and increasingly proactive

The Policy and Information Team is a conduit for sharing good practice across different sector groups among Scottish public authorities. The sharing of challenges, approach and policy between similar stakeholders is effective and valuable.

Recognising from feedback that information management functions are under pressure in many public authorities, the Commissioner will engage with senior leadership teams on the need and value for their organisations to be more proactive with their FOI information disclosures. Although interventions are a key enabler for this approach, without additional resources, it may be difficult to effectively deliver.

A new improved platform to assist with statistical returns is being developed. It is envisaged that the platform will proactively publish performance data, allowing authorities to not only benchmark their own performance and tailor performance improvement, but also provide a wide group of stakeholders with accessible performance data. The data is a critical intelligence tool for the office and the public to monitor strengths and weaknesses of the FOI regime.

4 - deliver fair defensible decisions in a timely and efficient manner

Not only must the Commissioner deliver decisions that are fair, robust and defensible, but he must also ensure a throughput of cases to ensure decisions are timely and relevant. Faced with an unwelcome backlog of historical cases and with existing resources, it will be a challenge to clear these whilst ensuring new cases are dealt with timeously. A project to tackle the backlog is now running but contingency resourcing is crucial for it to succeed.

5 - contribute to Scotland being respected as a world-leader in openness and transparency

As a respected member of the International Conference of Information Commissioners, the Commissioner's office will continue to influence and inform international discussions, learn from the practice of others, and support colleagues in developing their systems. They will develop further international exposure through collaborations with Higher Education and the third sector and will continue to work closely with the Open Government Partnership.

6 - be recognised as an organisation of independent and trusted experts that is run efficiently, governed effectively and is open and transparent

The Commissioner's office is proud of its good reputation amongst service-users and stakeholders and will continue to make themselves available in providing independent, expert advice to both the public and authorities. They will lead by example in the open and transparent delivery of their statutory functions and will be an efficiently run and effectively governed public sector body, keeping pace with recognised standards and requirements. They will adopt new technologies and evolve their working practices and procedure to improve their efficiencies and deliver best value.

Measuring Outcomes

14. The Commissioner's key performance indicators (KPIs) are based on statutory duties, such as the requirement to report the number of decisions taking longer than four months, monitoring and promotion of FOI, approval of publication schemes and public sector governance requirements. KPI's are published in the Commissioner's Performance and Quality Framework, which is reviewed and republished each year with the Operational Plan. He will augment the existing KPIs with internal controls to give early warning of demand issues.
15. Achievement against targets and plans will be reported annually in the Commissioner's Annual Reports and Accounts laid before the Scottish Parliament and published quarterly on his website.

Tactical Priorities

16. The Commissioner has three tactical priorities which are-
 - 1) eliminating the case backlog and returning the enforcement system to equilibrium, matching investigation demand with an appropriate number of investigative resource
 - 2) supporting and promoting legislative development and extension; and
 - 3) building a full-time Interventions Resource capability.
17. The estimated costs included in the plan are in line with those submitted as part of the 2024 budget approval process. The Commissioner is a demand-led organisation and the indicative costs are based on current workload and remit etc.

18. The Commissioner drafted his Strategic Plan prior to the SPCB approving contingency funding for two temporary members of staff for two years to clear the backlog. Resourcing is a recurring theme in the draft plan given applications numbers are anticipated to continue to rise and there is a likelihood of legislative changes which will increase the Commissioner's jurisdiction. The Commissioner considers that his office is under-resourced, cannot deliver best value and he intends to apply for an increase to his core budget for additional resources to conduct interventions in future years.
19. However, recognising that the next four years will remain challenging for public services and to public service finances, the Commissioner will continue to seek core funding to enable him to deliver his statutory functions to an acceptable standard and quality, and within the timescales expected in FOISA and other legislation. The Commissioner also recognises that he may be required to consider, and consult with the SPCB and others, about the impact of reductions in public sector spending during the period of his plan.
20. The Commissioner intends to seek additional contingency funding in 2024/25 to enable a full transition to hybrid working (ideally moving to SCOTS, the Scottish Government's IT platform for organisations) to enable his premises to accommodate additional officeholders/organisations which will enable the sharing of services and assets, leading to savings. The SPCB will be aware that contingency funding in 2024/25 is limited and any requests will have to be prioritised. With the agreement of the SPCB we will make the Commissioner aware of the situation. **Does the SPCB agree?**
21. The SPCB is invited to consider the Commissioner's draft Strategic Plan attached at Annex A.

Commissioner for Children and Young People in Scotland

22. The Commissioner is Nicola Killean who was appointed on 16 August 2023 for 6 years.
23. The Commissioner's general duty is to promote and safeguard the rights of children and young people in Scotland. In particular, the Commissioner is to promote awareness and understanding of the rights of children and young people; keep under review the law, policy and practice relating to the rights of children and young people with a view to assessing the adequacy and effectiveness of such law, policy and practice; promote best practice by service providers and promote, commission undertake and publish research on matters relating to the rights of children and young people.
24. The Commissioner is co-located with other officeholders in Bridgeside House and employs 14.7 FTE staff.
25. The Commissioner involved children and young people in developing the draft Strategic Plan based on their experiences, insights and opinions,

adults from organisations that work with and for children and young people, parents of babies and parents of disabled children.

26. The draft Plan has three Strategic Aims with Strategic Objectives setting out what they intend to do and details of how they will assess impact–

1. Leadership – children and young people will be meaningfully involved in decision-making and duty bearers held accountable for realising children’s rights.

Strategic Objectives

- undertake action research with children and young people to make visible to decision-makers how children are experiencing their rights in Scotland
- champion and challenge leaders to improve national and local practice which involves children and young people in decision making and reform
- hold duty bearers accountable for decision-making and delivery of commitments to children and young people
- highlight barrier and gaps in knowledge, resources or ways of working which affect the realisation of children’s rights, and
- commit to continuous improvement to maximise impact and keep under review resource requirements to fulfil statutory duties and use of powers.

Assessing impact

- through regular engagement children and young people will track progress with us
- our research will be accessible and used by decision makers to inform their work and influence improvements
- our tracking will improve public transparency of where duty bearers are not delivering on existing commitments, holding them accountable to act
- through highlighting barrier sand gaps in embedding children’s rights, improvement activity will be actioned.

2. Protect – laws, policies and practice will fulfil children’s rights and where breaches happen, children will have improved access to justice

Strategic Objectives

- review and influence law, policy and practice in relation to children’s rights, learning from and influencing international human rights mechanisms where it adds value
- use our legal powers to challenge systematic breaches of children’s rights
- actively seek opportunities to collaborate with others to address deep rooted challenges for children whose rights are most at risk
- address discrimination throughout our activity in priority issues,

Accessing impact

- inviting feedback, listening to sector stakeholders and seeking evidence that our child-rights expertise has influenced law, policy and practice, we will better understand progress and impact
- learning from children's rights breaches leads to change in law, policy or practice and (if appropriate) work can be done to provide redress and access to justice
- our collaborations with stakeholders and groups of children whose rights are most at risk, will inform and influence duty bearers to make progress on deep rooted challenges
- we will increase understanding of changes required to address forms of discrimination experienced by children and young people.

3. Promote – an ambitious and positive culture of children's rights where awareness and understanding of the UN Convention on the Rights of the Child contribute to improvements for children

Strategic Objectives

- raise awareness and understanding of how to take a children's rights approach in decision-making and improving services
- create resources with children and young people that support a broad understanding of children's rights and how they should be experienced
- provide targeted engagement for children and young people whose rights are most at risk
- commit to continuous improvement on making our communications accessible and inclusive.

Accessing impact

- meaningful collaboration with children and duty bearers will increase understanding of good practice and increase child-rights based decision making
- resources created with children and young people to articulate ways in which their rights are experienced within a range of settings will be used and be helpful to others
- engagement with children whose rights are most at risk is meaningful and creates positive change
- our information and resources are available for people with a range of accessibility requirements.

Priority issues

27. The Commissioner asked children and young people what was most important to them now and in the future and their top priorities were **poverty**, **education** and **mental health**. The Commissioner intends to start the strategic plan period by focussing on these areas but will also work on climate change and discrimination.

28. The Commissioner will report on progress through her Annual Report and Accounts, committee scrutiny sessions, publications on their website and reports and wider communications including outputs from their Young Advisers.

29. The estimated costs included in the draft plan are in line with those submitted as part of the 2024 budget approval process. The Commissioner has highlighted that the incorporation of the UNCRC into domestic law and the forthcoming Human Rights Bill will place additional demands on her office and that these will have to be resourced.

30. The SPCB is invited to consider the Commissioner's draft Strategic Plan attached at Annex B.

Governance

31. Seeking comments from the SPCB prior to the laying of a strategic plan is a statutory requirement. The officeholders have until the end of March 2024 to lay their plans.

Resource Implications

32. Providing estimated costs in a draft Strategic Plan is a statutory requirement. The SPCB commenting on a draft plan does not guarantee future funding and we will make this clear when we respond to the officeholders. The officeholders' budgets are subject to annual approval by the SPCB.

Publication Scheme

33. This paper may be published.

Decision

21. The SPCB is invited to consider and provide any comments of the draft Strategic Plans of -

(a) the Scottish Information Commissioner, and

(b) the Commissioner for Children and Young People in Scotland

Officeholder Services
March 2024