

RECORDS MANAGEMENT

Purpose

1. To provide members with an update in relation to records management arrangements for the Council.

Discussion

2. As a public authority, the Scottish Civil Justice Council (“the Council”) is subject to statutory records management obligations. This paper provides an update on revisions in relation to the Council’s Publication Scheme and its Record Management Plan.

Publication Scheme

3. The Council is listed under Part 7 of Schedule 1 to the Freedom of Information (Scotland) Act 2002 (“FOISA”). This requires Scottish public authorities to adopt and maintain a publication scheme, which sets out the authority’s high-level commitment to proactively publish information.
4. The Council’s [Publication Scheme and Guide to Information](#) (the Guide) was last revised in January 2017 to ensure compliance with the Scottish Information Commissioner’s (“the Commissioner”) latest Model Publication Scheme, produced on 20 March 2016.
5. Since the last revision, the Commissioner has notified the Secretariat of important updates from the 2017 edition of their Model Publication Scheme and Guidance, which was published on 27 July 2017.
6. Key changes introduced in the 2017 Edition include:
 - the insertion of links to add reference to publication and charging duties under the Environmental Information (Scotland) Regulations (2004) (paragraphs 2 and 15);
 - a reminder that authorities must also consider their duties under the Equality Act 2010 when responding to requests for information in alternative formats (paragraph 9); and

- minor amendments such as reformatting, updating wording, updating dates and the abbreviation of Model Publication Scheme to MPS throughout the document.
7. These amendments have now been made to the Council's Guide to ensure compliance with the new version of the Commissioner's Model Publication Scheme requirements. The revised version can be seen at **Paper 3.3A**.
 8. **Members are invited to consider and approve the proposed revisions to the Council's Publication Scheme and Guide to Information (the Guide).**

Records Management Plan

9. While it was not mandatory for the Council to prepare a Records Management Plan (RMP), it was considered that good records management is essential to assist with fulfilling obligations under FOISA. Under section 61 of FOISA, the Scottish Ministers may issue a code of practice describing the practice that they consider would be desirable for Scottish public authorities to follow in connection with the keeping, management and destruction of their records.
10. In early 2013 a RMP for the Council and its Committees was therefore produced with reference to the Scottish Ministers' Code of Practice under section 61 of FOISA, guidance produced by the Commissioner and the Keeper and having consulted the Office of the Commissioner. The RMP also took account of the records management arrangements applied by the Scottish Courts and Tribunals Service (SCTS), on the basis that the SCTS provide the property, services and staff as required by the Council.
11. At its meeting of 13 January 2014, the Council adopted the RMP.
12. Under Section 2(2) the Public Records (Scotland) Act 2011 ("the 2011 Act"), the Scottish Ministers can amend the list of named Scottish public authorities to which the terms of the Act apply and the Council, along with the Scottish Sentencing Council and the Criminal Court Rules Council, was formally listed with effect from 17 September 2015.
13. Under the terms of the 2011 Act, public authorities listed in the Schedule to the Act are required, under section 1, to prepare an RMP, submit the RMP to the Keeper for agreement and ensure that its public records are managed in accordance with the plan.
14. The Keeper had indicated that the intention would be for the Council to submit their RMP between mid to late 2017 and early 2018.

15. The Secretariat has been liaising with the SCTS with the intention of revising the Council's RMP to ensure statutory compliance and it was agreed with the Lord President that it would be prudent for the Council, along with the Scottish Sentencing Council and the Criminal Courts Rules Council, to incorporate the Council's RMP into a revised SCTS RMP and to have a separate Annex for the Council's preservation and destruction schedule.
16. The SCTS's RMP was submitted to National Records of Scotland (NRS) at the end of July 2017. It is intended that the RMP is a living document and will be subject to regular updates.
17. Discussions are still taking place with the SCTS and the Council's Secretariat to agree a separate retention and destruction schedule for the Council's records, in similar terms to that contained in the Council's voluntary plan. The plan, as currently drafted, can be seen at **Paper 3.3B**.
18. A meeting will be scheduled later this year with NRS to assist in finalising robust secretariat processes to ensure compliance with the RMP.
19. Once a final version of the SCTS RMP is available incorporating the Council, it is intended that the Council's current voluntary plan be removed from the Council's website. In place of the voluntary plan, a RMP commentary description and a link will be added directing to the SCTS's RMP web page.
20. **Members are invited to note these ongoing arrangements.**

Future amendments

21. As outlined in the preceding paragraphs, both the Publication Scheme and the Records Management Plan will require to be reviewed and updated regularly to ensure statutory compliance with the latest Government publications. As can be seen, many of these amendments are administrative in nature and do not amend the substantive content of the documents.
22. **To date, all proposed changes to both documents have been approved by the Council in advance of publication.**
23. **Members are invited to consider whether this practice should continue or whether they would be content for the Secretariat to revise the documents as appropriate, with any non-routine matters referred to the Lord President in the first instance his capacity as Chair of the Council.**

Recommendation

24. Members are invited to:

- **consider and approve the proposed revisions to the Council's Publication Scheme and Guide to Information at Paper 3.3A;**
- **note the ongoing arrangements for the revision of the Council's Records Management Plan; and**
- **consider arrangements for future revisions of both documents.**

Scottish Civil Justice Council Secretariat

September 2017