

ITEM 3.2: RECORDS MANAGEMENT PLAN**Purpose**

1. To seek members' agreement to adopt a records management plan for the SCJC.

Background

2. Under section 61 of the Freedom of Information of (Scotland) Act 2002 (FOISA), the Scottish Ministers must issue a code of practice¹ 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.
3. While it is not mandatory for the SCJC to prepare a records management plan, it is considered that good records management is essential to assist with fulfilling obligations under FOISA. In addition, the Scottish Information Commissioner's role includes the promotion of good practice, including promotion of observance of the Scottish Ministers' Code. The Commissioner may take action to encourage or enforce observance of the Code if he or she considers that an authority is not taking account of the guidance within it.
4. The Code of Practice summarises good practice in records management as follows:
 - Good practice in records management is made up of nine key elements. When considering these, authorities should have regard to the statutory guidance issued by the Keeper under the 2011 Act.
 - Authorities should have in place organisational arrangements that support records management.
 - Authorities should have in place a records management policy, either as a separate policy or as part of a wider information or knowledge management policy.
 - Authorities should ensure they keep the records they will need for business, regulatory, legal and accountability purposes.
 - Authorities should keep their records in systems that enable records to be stored and retrieved as necessary.
 - Authorities should know what records they hold and where they are, and should ensure that they remain usable for as long as they are required.

¹ The Code was last revised in December 2011 and is available at <http://www.scotland.gov.uk/Resource/Doc/933/0124124.pdf>.

- Authorities should ensure that records are stored securely and that access to them is controlled.
- Authorities should define how long they need to keep particular records, should dispose of them when they are no longer needed and should be able to explain why records are no longer held.
- Authorities should ensure that records shared with other bodies or held on their behalf by other bodies are managed in accordance with the Code.
- Authorities should monitor compliance with the Code and assess the overall effectiveness of the programme.

SCJC Records Management Plan

5. A Records Management Plan (RMP) for the SCJC has been produced with reference to the Code of Practice, guidance produced by the Scottish Information Commissioner and the Keeper and having consulted the Office of the Scottish Information Commissioner. The RMP has also been prepared with regard to the records managements arrangements applied by the Scottish Court Service.
6. Members may wish to note the following features of the plan:
 - **Preservation and archiving** (paras. 6-11 and Annex A) – the preservation and retention schedule at Annex B sets out the records which will be routinely destroyed, which will be sent to National Records of Scotland (NRS) for preservation and the applicable timescales for doing so. Records for preservation include meeting papers, appointments, draft rules and policy papers including any supplementary documentation, records outlining decisions/recommendations of the SCJC, financial records, liaison with external agencies (eg government or parliament), requests for information, research, consultation responses (by or to the SCJC), and records on corporate governance and policies. The appropriate access to records will be considered prior to them being sent to NRS for preservation (e.g. records containing personal information would be marked as subject to exemption and therefore not be subject to public access).
 - **Destruction Arrangements** (paras. 12-15): the SCJC will adhere to the arrangements for records that are in place within the SCS. The Secretariat will make arrangements for disposal of documents in the possession of SCJC or committee members where necessary.

- **Records review** (paras. 16-18): a procedure for reviewing files for the purposes of determining whether they should be destroyed, retained or preserved is set out. The procedure is in line with that used by the SCS and government departments.
- **Information Sharing** (paras. 19-21): the Lord President's Private Office (LPPO) provides legal advice to the SCJC and to the judiciary. The SCJC and LPPO will share files where appropriate to avoid duplication and to assist the SCJC to meet its obligations under FOISA. Where legal advice is routinely provided, LPPO will maintain corresponding files where relevant records will be stored in accordance with legal and professional obligations.
- **Filing** (paras. 22-23): while the physical files will remain the official corporate record, electronic 'back up' files will be maintained in order to facilitate the easy retrieval of information.
- **Protective markings** (paras. 24-26 and Annex B): the protective markings for documents are those that are used widely across the public sector. While extremely unlikely, any SECRET or TOP SECRET documents held by the SCJC would be held in accordance with SCS procedures.
- **Responsibilities of SCJC and committee members and staff** (paras. 28-29): these set out principles of good records management practice which should be observed. These are intended to complement the obligations set out in the SCJC Standing Orders.
- **Reporting Procedures** (paras. 32-33): any incident which might compromise the confidentiality, integrity or availability of information will be reported internally as soon as discovered and reported to the Secretariat, which will report significant incidents to the Chairman.

7. Subject to agreement, the RMP will be published following the meeting.

Recommendation

8. **Members are invited to adopt the RMP contained in Paper 3.2A and agree to it being published during January 2014.**