

Assessment of compliance with the Code of Practice for Official Statistics

Statistics on Freedom of Information: Implementation in Central Government

(produced by the Cabinet Office)

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About the UK Statistics Authority

The UK Statistics Authority is an independent body operating at arm's length from government as a non-ministerial department, directly accountable to Parliament. It was established on 1 April 2008 by the *Statistics and Registration Service Act 2007*.

The Authority's overall objective is to promote and safeguard the production and publication of official statistics that serve the public good. It is also required to promote and safeguard the quality and comprehensiveness of official statistics, and good practice in relation to official statistics.

The Statistics Authority has two main functions:

1. oversight of the Office for National Statistics (ONS) – the executive office of the Authority;
2. independent scrutiny (monitoring and assessment) of all official statistics produced in the UK.

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NATIONAL STATISTICS STATUS

National Statistics status means that official statistics meet the highest standards of trustworthiness, quality and public value.



All official statistics should comply with all aspects of the *Code of Practice for Official Statistics*. They are awarded National Statistics status following an assessment by the Authority's regulatory arm. The Authority considers whether the statistics meet the highest standards of Code compliance, including the value they add to public decisions and debate.

It is a producer's responsibility to maintain compliance with the standards expected of National Statistics, and to improve its statistics on a continuous basis. If a producer becomes concerned about whether its statistics are still meeting the appropriate standards, it should discuss its concerns with the Authority promptly. National Statistics status can be removed at any point when the highest standards are not maintained, and reinstated when standards are restored.

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1 Summary of findings

Introduction

- 1.1 This is one of a series of reports¹ prepared under the provisions of the *Statistics and Registration Service Act 2007*². The Act gives the Statistics Authority (the Authority) power to re-assess whether the *Code of Practice for Official Statistics*³ continues to be complied with in relation to official statistics already designated as National Statistics. The report covers the set of statistics reported in *Freedom of Information Statistics: Implementation in Central Government*⁴ (*FoI Statistics*) published by the Cabinet Office (CO).
- 1.2 Following the transfer of FoI policy responsibility, in October 2015, the Ministry of Justice (MoJ) transferred the responsibility for collecting and publishing *FoI statistics* to CO. Following discussions with the Head of Profession for Statistics (HoP) at CO, the Authority's Director General for Regulation wrote to the HoP on 16 December 2015⁵ to confirm the continued designation of *FoI statistics* as National Statistics, upon their transfer to CO. He welcomed the HoP's commitment: to fully comply with the *Code* in respect of these statistics; and to uphold the values of trustworthiness, quality and value that underpin National Statistics status. The Director General for Regulation confirmed that a re-assessment would be scheduled for early in 2016. The previous assessment of *FoI Statistics* was reported in Assessment report 35 in May 2010⁶.
- 1.3 This report was prepared by the Authority's Assessment team, and approved by the Regulation Committee on behalf of the Board of the Statistics Authority, based on the advice of the Director General for Regulation.

Decision concerning designation as National Statistics

- 1.4 The Authority judges that the statistics published in *FoI Statistics* may continue to be designated as National Statistics, subject to CO implementing the Requirements listed in paragraph 1.9. CO is expected to report its completed actions by March 2017. Reflecting the importance of achieving the National Statistics designation, and to provide users with confidence in the direction of travel, the Authority expects CO to include a clear statement explaining the National Statistics status of these statistics, the issues upon which the continued designation is contingent, and its plan of proposed actions to increase trustworthiness, quality and public value in *FoI Statistics* due for publication in September 2016.
- 1.5 CO has informed the Assessment team that it has started to implement the Requirements listed in paragraph 1.9, specifically: gathering more information from departments about the scope of the data collection; clarifying the data collection template; improving the presentation of *FoI Statistics*; improving the

¹ <https://www.statisticsauthority.gov.uk/publications-list/?keyword=&type=assessment-report>

² http://www.opsi.gov.uk/Acts/acts2007/pdf/ukpga_20070018_en.pdf

³ https://www.statisticsauthority.gov.uk/wp-content/uploads/2015/12/images-codeofpracticeforofficialstatisticsjanuary2009_tcm97-25306.pdf

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517909/freedom-of-information-statistics-2015-Q4-annual__1_.pdf

⁵ <https://www.statisticsauthority.gov.uk/publication/freedom-of-information-statistics/>

⁶ <https://www.statisticsauthority.gov.uk/publication/statistics-on-freedom-of-information/>

accessibility of the data and associated metadata; and including additional consistency checks in the data collection process. The Statistics Authority welcomes this.

Key findings

Trustworthiness

- 1.6 *Fol statistics* are the first set of National Statistics to be produced by CO. The HoP has quickly established the statistical infrastructure to embed the production of the statistics, publishing a transparent framework of statistical policies and standards and recruiting a small professional and skilled team from within CO's Analysis and Insight team. The team reports directly to the HoP, providing separation in the decision-making chain from the policy users of the statistics within CO. During the course of this assessment, we found the statistics team to operate with integrity and independence, but one user expressed a lack of trust in the narrative around the statistics. This is an obvious challenge for CO statisticians, as the statistics are the vehicle for reporting on CO's own performance in responding to FOIA requests. While we found no evidence of a lack of integrity or objectivity among the statistical team, our Requirements point to actions for CO to further demonstrate this integrity and trustworthiness to users.

Quality

- 1.7 Whilst providing the assessment team with evidence for how the data are collected and processed, CO has not yet published any information about the methods used to produce the statistics, since taking on responsibility for them. The data collection guidance and straightforward compilation methods of the statistics suggest that they are fit for purpose, and *Fol Statistics* provides some information about the limitations of the statistics, but CO needs to do more to explore and communicate the methods of compilation and the quality assurance arrangements for users. Since taking responsibility for the statistics, CO has started to gather and publish metadata about the coverage of the statistics for government departments that do submit data, but further work is needed to provide clarity for users about coverage so that they can understand how far the statistics meet their needs. Users, while generally satisfied with the quality of the statistics, have identified other aspects of the statistics where greater clarity about definitions and their application would be helpful, particularly where the related distributions are used to understand Central Government's performance in applying the Freedom of Information Act 2007⁷ (FOIA) for cases taking a very long time to resolve.

Public Value

- 1.8 The HoP told us that he took the decision to focus on assuring that the established quality of the statistics was maintained when publishing for the first time in December 2015 and that he was awaiting the final report of the Burns Commission, and the Government's response, before engaging with users on questions of public value and presentation. Now that these key reports have

⁷ http://www.legislation.gov.uk/ukpga/2000/36/pdfs/ukpga_20000036_en.pdf

been published, we look to CO to engage users and data suppliers about how to maximise the public value of the statistics, and to build on the feedback gathered as part of this assessment – particularly to confirm the best coverage and timeliness for the statistics.

Requirements for designation as National Statistics

1.9 The Assessment team identified some areas where it felt that CO should improve the production and presentation of *FoI Statistics*. Those improvements that CO is required to make in order to confirm designation as National Statistics are listed here – as Requirements – alongside a short summary of the key findings that led to each Requirement being made.

Finding	Requirement	
<p>Since taking responsibility for <i>FoI statistics</i>, CO's direct engagement with users has so far been limited and it publishes little information about their needs or its plans for meeting them. In order to add significant public value to these statistics, CO should:</p>	<p>1</p>	<p>Establish a culture of open and transparent engagement with users that is acknowledged and respected by them, and is demonstrated by:</p> <ul style="list-style-type: none"> a) Regular, frequent, ongoing engagement with a wide range of users and potential users to build strong ongoing relationships, using means that support debate and draw on the expertise of a wide array of users b) Engagement with its data suppliers, that develops and maintains a mutual understanding of the data supply c) The publication of a schedule of user and supplier engagement activities that outlines clearly how it will continue to strengthen its dialogue with users and data suppliers d) A clear understanding of how user and supplier feedback is taken into account during statistical planning e) Updated documentation about uses and users of <i>FoI Statistics</i> that takes into consideration the information that it has gathered from its own user engagement, and from user feedback for this re-assessment, which CO commits to keep up to date <p>(para 3.3).</p>
<p>CO has made some improvements to the presentation of <i>FoI statistics</i> since they transferred from MoJ, but there</p>	<p>2</p>	<p>Improve the public value of <i>FoI statistics</i> by:</p> <ul style="list-style-type: none"> a) Providing users with an insightful narrative that helps them to answer their key questions b) Explore the cost-benefit of collecting and

<p>remains potential to improve their public value for users. The HoP told us that he is committed to adding that value. CO should:</p>		<p>publishing a finer breakdown of the distribution of deadline extensions to provide transparency around Public Interest Test extensions and delays due to internal reviews</p> <p>c) Providing clarity for users around scope and definitions, and how this impacts their use of the statistics to interpret compliance with the FOIA and related policy</p> <p>d) Exploring and implementing helpful ways to alert users to the publication of <i>FoI statistics</i>, including social media channels</p> <p>As part of meeting this Requirement, CO should engage with users to understand their needs for more timely and frequent statistics and use the outcomes to inform its development plans.</p> <p>(para 3.8).</p>
<p>CO has not published sufficient information about the strengths and limitations of the statistics, its data quality assurance processes or the extent of comparability of the statistics with similar statistics produced by other UK countries. In order to enhance the quality and public value of these statistics, CO should:</p>	<p>3</p>	<p>Publish information that assures users about the quality of the FoI statistics that:</p> <p>a) Includes a description of the data collection processes and the quality assurance procedures associated with each of those steps, to give an indication of the reliability of the statistics</p> <p>b) Includes comprehensive supporting information about the quality of the statistics</p> <p>c) Covers all aspects of quality referred to in the ESS framework</p> <p>d) Highlights clearly the degree of comparability of <i>FoI Statistics</i> with those produced by other UK countries</p> <p>As part of meeting this Requirement, CO should refer to the Authority's <i>Administrative Data Quality Assurance Toolkit</i></p> <p>(para 3.21).</p>
<p>In order to reflect the importance of achieving National Statistics designation and the findings from this assessment, CO should demonstrate how it is adapting its</p>	<p>4</p>	<p>Publish its plan of proposed actions to increase trustworthiness, quality and public value in <i>FoI Statistics</i> due for publication in September 2016</p> <p>(para 3.24).</p>

<p>engagement with users and data suppliers, and responsively develop the analysis and supporting narrative of <i>FoI statistics</i>. Therefore, CO should:</p>		
<p>The value of <i>FoI statistics</i> relative to the cost burden to suppliers has not been reviewed for several years and, in light of the Burns Commission report, the HoP agrees that such a review would be timely. To clarify the public value of these statistics, CO should:</p>	<p>5</p>	<p>a) Review the coverage of <i>FoI statistics</i> and determine an optimum balance between the benefits arising from the use of the statistics and the cost burden to data suppliers</p> <p>b) Publish plans and timescales of any potential changes to the collection following the Burns Commission report (para 3.31).</p>

2 Subject of the assessment and users' views

Introduction

- 2.1 The Freedom of Information Act 2000⁸ (FoIA) came fully into force on 1 January 2005. The FoIA applies to more than 100,000 public bodies in England, Wales and Northern Ireland. Scotland has its own legislation – the Freedom of Information (Scotland) Act 2002⁹. The FoIA requires that any written request for information be answered within 20 working days; where a request requires consideration of the public interest balance, the statutory time limit for responding can be extended. (See Annex 2 of this report for a summary account of the operational details of the FoIA.) The implementation of the FoIA across the whole of the public sector is monitored and enforced by the Information Commissioner's Office (ICO).
- 2.2 In July 2015, the Minister for the Cabinet Office and Paymaster General appointed an Independent Commission¹⁰, chaired by Lord Burns, to review the FoIA as it has developed in the ten years since it came into force. The final report¹¹ was published in March 2016 and noted 'It is the conclusion of the Independent Commission on Freedom of Information that the Act is generally working well, and that it has been one of a number of measures that have helped to change the culture of the public sector. It has enhanced openness and transparency'.
- 2.3 The Environmental Information Regulations 2004¹² (EIR) apply to requests for environmental information from public bodies in England, Wales and Northern Ireland. Scotland has its own legislation – the Environmental Information (Scotland) Regulations 2004¹³.
- 2.4 Quarterly and annual statistics on the implementation of the FoIA in central government have been published since the FoIA came into force (see Figure 1), initially by the former Department for Constitutional Affairs, then by the Ministry of Justice (MoJ) and, since December 2015, by CO. Since its inception (the first annual report for 2006 was published in June 2007¹⁴), *FoI Statistics* also includes figures for the number of requests under the EIR. Each quarterly statistical report contains the following aggregated counts for each monitored body:
- Number of FoIA requests
 - Number of EIR requests
 - Outcome of FoIA and EIR requests
 - Timeliness of response to FoIA and EIR requests
 - Number and type of exemptions FoIA and EIR requests

⁸ See footnote 7

⁹ http://www.legislation.gov.uk/asp/2002/13/pdfs/asp_20020013_en.pdf

¹⁰ <https://www.gov.uk/government/organisations/independent-commission-on-freedom-of-information>

¹¹ <https://www.gov.uk/government/publications/independent-commission-on-freedom-of-information-report>

¹² http://www.legislation.gov.uk/uksi/2004/3391/pdfs/uksi_20043391_en.pdf

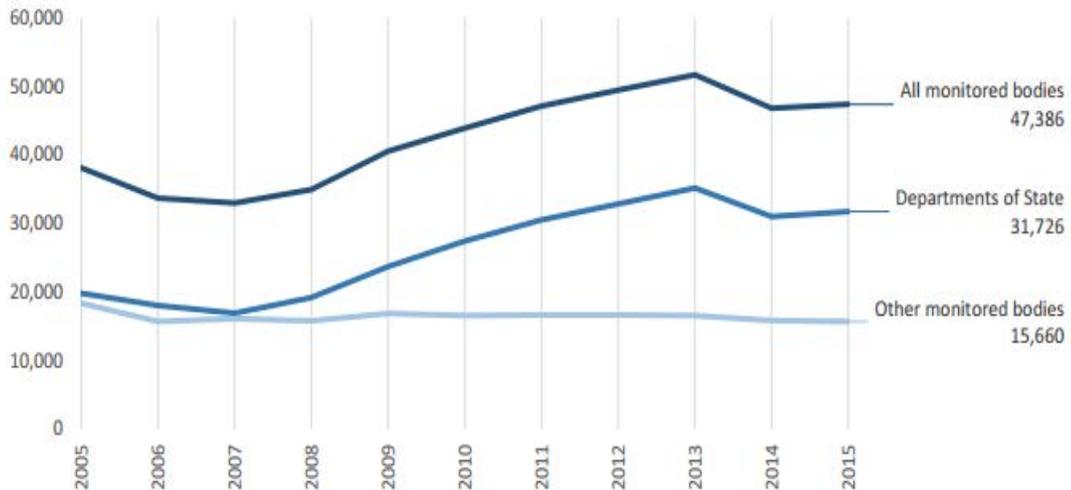
¹³ http://www.legislation.gov.uk/ssi/2004/520/pdfs/ssi_20040520_en.pdf

¹⁴ <http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/publications/docs/foi-annual-report-central-gov-2006.pdf>

- Number of Section 21 exemptions applied
- Timeliness of response

The annual report contains extra statistics about: the number and timeliness of internal reviews; the outcomes of appeals to the ICO; and the number and timeliness of public interest test (PIT) extensions and the amount generated by the use of fees.

Figure 1: Annual volume of FoI requests across all monitored central government bodies since January 2005



Source: *Freedom of Information Statistics: Implementation in Central Government, 2015 Annual*, Cabinet Office

2.5 *FoI Statistics* was previously assessed by the Authority, when it was produced by MoJ, as part of *Assessment Report 35: Statistics on Freedom of Information*¹⁵ in May 2010 and designated as National Statistics in September 2010¹⁶. The assessment report made three Requirements, which have all been addressed by MoJ¹⁷:

- Document users' experiences of *FoI statistics*, data quality, and the format and timing of reports
- Provide more information about the quality of the statistics in relation to the potential uses
- Publish the name of the responsible statistician or the statistical Head of Profession in all statistical releases

¹⁵ See footnote 5

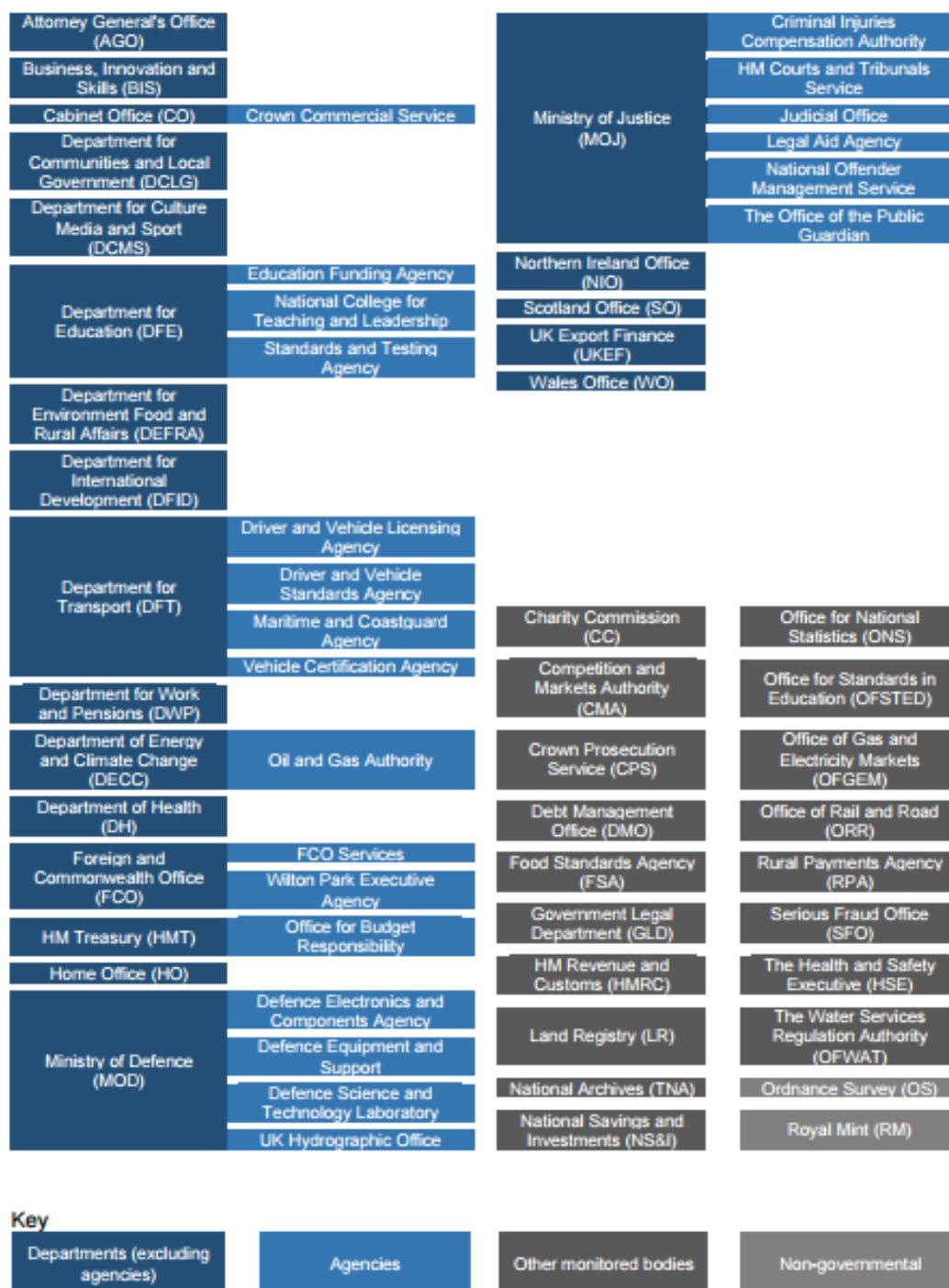
¹⁶ <https://www.statisticsauthority.gov.uk/publication/statistics-on-freedom-of-information-letter-of-confirmation-as-national-statistics/>

¹⁷ https://www.statisticsauthority.gov.uk/wp-content/uploads/2015/12/images-letter-from-richard-alldritt-to-iain-bellassessment-of-statistics-on-freedom-of-information-30092010_tcm97-34206.pdf

Sources of the data

2.6 Statistics on the application of the FoIA and the EIR are derived from data supplied to CO by 41 central government bodies, which include 21 Departments of State and 20 other monitored bodies (see Figure 1). The list of bodies is included in an annex to *FoI Statistics*.

Figure 2: Scope of FoI monitoring



Source: *Freedom of Information Statistics: Implementation in Central Government, 2015 Annual*, Cabinet Office

- 2.7 Government departments are required to supply monitoring returns to CO every quarter. CO requests the data by emailing a customised Excel template that is completed by the FoIA lead in each department (see para 3.25 onwards for more detail).

Governance arrangements

- 2.8 To ensure the independent production and publication of the statistics, the statistics team in CO that produces *FoI Statistics* ultimately reports to the Chief Economist who leads the Analysis and Insights team. This is a separate reporting line from the central FoI policy team in CO.

Summary of users' and suppliers' feedback

- 2.9 As part of this assessment, we asked for views about the statistics from a range of representatives from central government, local government, the ICO, lobby groups, the media and data suppliers, who were also data users (see Annex 2 for details of the engagement process). Their views have been presented throughout the report and have influenced the Requirements.
- 2.10 CO policy officials use the statistics to monitor individual departments' performance against the FoIA and to ensure that government departments are interpreting and implementing the FoIA to the required standards – this informs decisions about the need to issue further guidance. ICO officials use the statistics to monitor the performance of government departments regarding compliance with the 20 days rule to answer FoIA requests.
- 2.11 One lobby group uses the official statistics as a comparator to unofficial statistics from www.WhatDoTheyKnow.com. Another lobby group uses the statistics to understand trends in performance of government bodies; to monitor changes as a result of information law change, such as the definition of vexatious requests, to answer press queries and to publish a blog *The Whitehall Monitor*¹⁸ every quarter. The media tend to use the statistics to Tweet about departments' performance against the 20 days target.
- 2.12 Departments who supply the data use the published statistics to benchmark their own performance, if they can find a department which receives comparable requests for information, and to answer Parliamentary Questions about the time it takes their department to respond to FoIA requests.

Other research and statistics about the Freedom of Information Act

- 2.13 The ICO is responsible for monitoring the application of the FoIA by public bodies in England, Wales and Northern Ireland¹⁹ and publishes reports following its activities to monitor compliance with the FoIA in central government, for example. Amongst its various activities, the Scottish Information Commissioner's office²⁰ publishes research reports into various aspects of FoIA in Scotland.
- 2.14 *FoIA statistics* do not cover the Welsh Government (WG) or the bodies that make up the Northern Ireland Civil Service. The WG does not publish statistics

¹⁸ <http://www.instituteforgovernment.org.uk/blog/13583/how-whitehall-responds-to-foi-requests/>

¹⁹ <https://ico.org.uk/action-weve-taken/monitoring-compliance/>

²⁰ <http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.aspx>

about the implementation of the FoIA, but it releases disclosure logs giving details of the requests received by the WG²¹. Statistics and annual reports about FoIA requests to Northern Ireland Departments are published by the Office of the First Minister and Deputy First Minister²². The Scottish Government publishes annual reports and quarterly statistics on the implementation of the FoI (Scotland) Act²³.

- 2.15 Other bodies producing statistics about the implementation of the FoIA include the Institute for Government²⁴, which publishes helpful analysis and commentary on the performance of departments, based on FoI Statistics.

Accessibility and costs

- 2.16 The statistics team told us that the cost to CO of producing and publishing the statistics for the financial year 2016 to 2017 is estimated to be around £50 thousand.
- 2.17 CO publishes *FoI Statistics* as a pdf, with supplementary tables published in excel and .csv formats. This equates to a level of three stars under the Five Star Scheme that forms part of the Open Standards Principles proposed in the *Open Data White Paper: Unleashing the Potential*²⁵ and adopted as UK government policy in November 2012²⁶. Five stars represent the highest star rating within the Scheme.

²¹ <http://gov.wales/about/foi/publication-scheme/?lang=en>

²² <https://www.ofmdfmi.gov.uk/publications/foi-annual-reports>

²³ <http://www.gov.scot/About/Information/FOI/Reporting>

²⁴ <http://www.instituteforgovernment.org.uk/information>

²⁵ http://data.gov.uk/sites/default/files/Open_data_White_Paper.pdf

²⁶ <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>

3 Assessment findings

User engagement and meeting users' needs

- 3.1 CO has published a *User engagement statement*²⁷ that notes 'access to our statistics and engagement with our users is primarily through the relevant pages of CO's website'; the statement is generic and does not mention the FoIA statistics specifically. The statistics team told us that it plans to update the document. *FoI Statistics* publishes the contact details of the responsible statistician and users are directed to go to him with queries concerning the statistics.
- 3.2 Previous versions of the statistical report contained a short, generic paragraph about the users of the statistics, on page 30. *FoI Statistics* released in June 2016 has brought this forward to the second page. There is no evidence of direct, proactive and ongoing engagement with users by CO and the statistics team has not published any information about users' experiences of CO statistical services. The statistics team told us that it plans to engage soon with a wide range of users and data suppliers and that the Burns Commission report, and the government's response, as well as the outcomes of this assessment, will provide important context for that engagement. CO told us that it aims to improve its understanding of the different users and uses of the statistics, and users' experiences, to inform its future development plans.
- 3.3 Following the experience of publishing three sets of FoI statistics, and with the Burns Commission report now available, CO should move quickly to establish direct and proactive engagement with users inside and outside of CO. To add significant public value to these statistics, the statisticians need to demonstrate that they are listening to users' views, not least to ensure the trustworthiness of the narrative around the statistics. As part of the designation as National Statistics, CO should establish a culture of open and transparent engagement with users that is acknowledged and respected by them, and is demonstrated by:
 - a) Regular, frequent, ongoing engagement with a wide range of users and potential users to build strong ongoing relationships, using means that support debate and draw on the expertise of a wide array of users
 - b) Engagement with its data suppliers that develops and maintains a mutual understanding of the data supply
 - c) The publication of a schedule of user and supplier engagement activities that outlines clearly how it will continue to strengthen its dialogue with users and data suppliers
 - d) A clear understanding of how user and supplier feedback is taken into account during statistical planning
 - e) Updated documentation about uses and users of *FoI Statistics* that takes into consideration the information that it has gathered from its own user

²⁷https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/485661/User_Engagement_Statement_updated_December_2015.pdf

engagement, and from user feedback for this re-assessment, which CO commits to keep up to date²⁸

(Requirement 1).

Analysis, accessibility and dissemination

- 3.4 CO pre-announces and publishes quarterly and annual FOI statistics via the GOV.UK portal²⁹. As part of this assessment, users were generally positive about the accessibility of the statistics, and in particular how CO managed the transition from MoJ so that users could still easily access historical releases. One user asked if CO could use Twitter to alert users to the publication of the statistics. CO publishes all of its statistical policies and standards together, and has provided a clear route to these policies alongside the statistics.
- 3.5 CO publishes statistical reports with commentary supported by data tables in Excel and open data formats. As part of this assessment, users generally indicated that they make most use of the commentary in the annual report and are more likely to skip straight to the data tables on a quarterly basis. CO is considering the balance of detail that it provides as part of the different reports, though users indicated that were the quarterly commentary more insightful they would make greater use of it. This was not a call to lengthen the statistical reports, because users found them cumbersome and primed for streamlining. CO told us that it is sympathetic to this view. The HoP said that, for his first release, he focused on releasing the statistics to the same standard as MoJ and embedding the production processes. The statistics team includes experienced analysts who are keen to help users interpret the statistics, and to add value by answering their key questions. CO took the first steps along these lines in *FoI Statistics, 2015 and Q4*³⁰ by introducing more visual presentations of the data. *FoI Statistics* published in June 2016 notes 'Following feedback from users, we have changed how we present the main findings each quarter. This shorter bulletin now focuses on presenting them in a more user-friendly format, while the raw data/tables continue to be published separately in a number of different formats'. We welcome this development and, in order to enhance the public value of these statistics, we would encourage CO to take the next step to explain further for users what the graphics indicate about FOIA requests and departments' performance in responding to those requests.
- 3.6 As part of this assessment, users identified a number of specific improvements that they would like CO to consider to increase the value of *FoI statistics*:
- Users asked if CO could break the statistics down below organisation level to indicate which of the requests were from main departments, agencies and arm's length bodies. This was in part to understand the significance of requests missing from the reported numbers. Data are supplied to CO as aggregated data that summarise information across the relevant monitored bodies. However, the statistics team told us that it is reviewing the coverage of the statistics and, as a first step, had asked departments to confirm which agencies and monitored bodies contributed FOIA data to the

²⁸ In relation to Principle 1, Practices 1, 2, 3, and 5 of the *Code of Practice*

²⁹ <https://www.gov.uk/government/collections/government-foi-statistics>

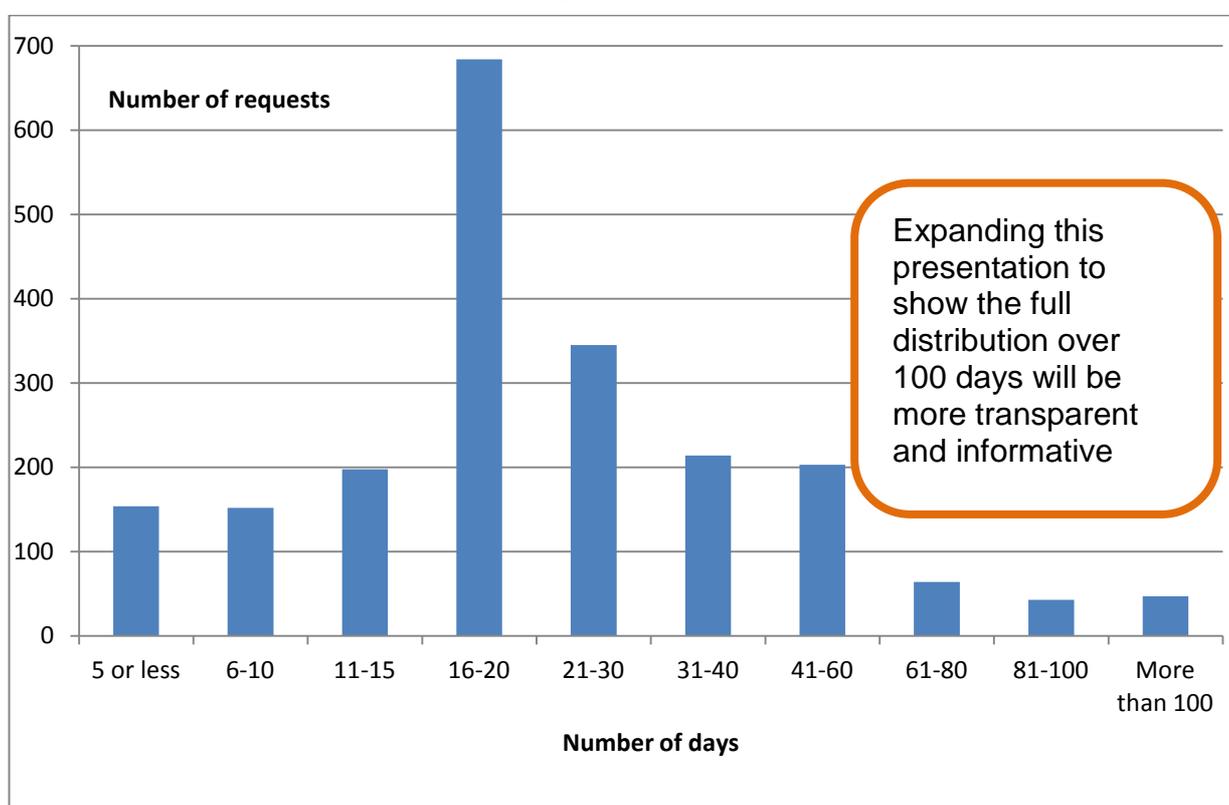
³⁰ <https://www.gov.uk/government/statistics/freedom-of-information-statistics-october-to-december-2015-and-annual>

annual statistics for 2015. The statistics team has collated a helpful diagram in the statistical report (reproduced as Figure 2 in this report), to highlight which bodies are included. However, there is no information on which bodies are excluded from the statistical collection. CO might usefully explore different ways to quantify potential gaps in coverage. Users who responded to this assessment told us that they welcomed the fact that the coverage of the statistics is being reviewed by CO (see para 3.27 for more on this)

- ICO uses the statistics to monitor central government's compliance with the 20 days target response time; if a department's response times exceed the target in 15 per cent of their responses, ICO will issue a formal notice. However, ICO staff told us that the official statistics are published too late (three months after the close of the reporting period) to allow them to effectively monitor performance in a timely manner. While we recognise the practicalities of allowing sufficient time to collect, analyse and quality assure the statistics, we consider that CO should consider how it might meet this key user's needs, in order to better inform decision making
- Users who responded to this assessment would like to see statistics on the use of the public interest time limit extension published quarterly, not just annually. The Burns Commission report details users' concerns about delays due to the public interest time limit extension. It quotes the annual statistics, noting that 'although the public interest comes into play in 60 per cent of exemptions, the public interest test extension is actually only invoked in a small minority of resolvable central government requests. In 2014, of the requests that relied on the public interest test extension, seven per cent took 61 to 100 days and two per cent took over 100 days. There are a minority of requests which are taking a significant amount of time to resolve. Whether it is better to describe a case that takes over 100 days to resolve as benefitting from a permitted time extension or simply late is debateable'. To aid transparency, users told us that they would welcome more information about the distribution of cases extended beyond 100 days (see figure 3 for a depiction of the 2015 data), and also that the statistical report be clear about whether such cases are counted as 'in time'. However, CO does not currently ask for these data from departments and the Authority considers that CO should look into collecting and publishing a finer breakdown of the distribution of deadlines
- Another use of the statistics noted by the Burns Commission report is to analyse delays due to internal reviews, where a request is refused and a respondent asks a public authority to review its own decision. The report states 'National Statistics show that internal reviews can take a substantial amount of time. For internal reviews completed in 2014, five per cent took 61 to 100 days and two per cent took more than 100 days. The Information Commissioner has issued guidance stating that he expects all internal reviews to be conducted within 20 working days'. The Burns Commission report makes recommendations for change in respect of capping both public interest time extensions and the time allowed for internal reviews. CO statisticians will need to consider changes to the statistics dependent on how far the government implements the Burns Commission recommendations but, until then, we consider that CO could offer users

helpful additional analysis of extensions that take longer than 20 days to resolve

Figure 3: Duration of deadline extensions to allow for the consideration of Public Interest which were applied to non-routine information requests received by monitored bodies during 2015



Source: Table 17, *Freedom of Information Statistics: Implementation in Central Government, 2015 Annual*, Cabinet Office

- Both users and data suppliers said that it is not clear how well the statistics deal with lengthy cases that remain open from one reporting period to the next. Data on the volume and timeliness of requests taking longer than a year to process due to involvement of the PIT or an IR are collected by CO and reported in Tables T15 to T18 of the annual report. Cases where a request is processed late without an extension at the end of the year are not presented in the tables, but a count is collected by CO. Data suppliers told us that they would always include such cases for their own management information reporting purposes and would like to see them reflected in the statistics
- Users also requested clarity about the treatment of Section 21 exemptions – where information is accessible to the applicant by other means – within the statistics, and what this means for their interpretation

3.7 Feedback from users as part of this assessment demonstrated how important objective, well-evidenced and insightful commentary is to enhancing the trustworthiness of the statistics. Trustworthiness is discussed further in paragraphs 3.22 to 3.24.

- 3.8 As part of the designation as National Statistics, CO should improve the public value of *FoI statistics* by:
- a) Providing users with an insightful narrative that helps them to answer their key questions
 - b) Exploring the cost-benefit of collecting and publishing a finer breakdown of the distribution of deadline extensions to provide transparency around Public Interest Test extensions and delays due to internal reviews
 - c) Providing clarity for users around scope and definitions, and how this impacts their use of the statistics to interpret compliance with the FoIA and related policy
 - d) Exploring and implementing helpful ways to alert users to the publication of FoI statistics, including social media channels³¹
- (Requirement 2).

As part of meeting this Requirement, CO should engage with users to understand their needs for more timely and frequent statistics and use the outcomes to inform its development plans.

Methods, quality and sources

- 3.9 *FoI Statistics* sets out the broad approach taken to collect data from organisations in scope for these statistics, and CO provided the assessment team with information about the data collection and processing methods, but CO does not publish enough information about the arrangements used to collect, process and compile the data. Some suppliers told us that they only report cases and appeals closed for the latest financial year, but occasionally a complicated case with appeals might span more than one year. Users told us that they wanted a better understanding of how the aggregate statistics are calculated and how CO deals with cases that are out of time; how extensions are calculated; how out-of-date requests are treated and whether practice differs by departments.
- 3.10 CO has published its *Statement on Quality Strategy Principles and Processes*³². This is a generic statement, which is not tailored for *FoI Statistics* and it does not explain how the data and statistics are quality assured; nor does it mention any of the European Statistical System (ESS) dimensions of quality assurance³³, such as how users' needs for timely, relevant data are met; or how comparability or coherence are addressed.
- 3.11 *FoI Statistics* contains an aggregate count of requests under the FoIA and EIR by department and associated monitored bodies. The statistical report defines the data as 'non-routine written requests for information' and 'routine information requests that are covered under Section 21', but in its interpretation, this is a very broad definition. The statistical report notes that 'There is considerable variation in the way bodies are structured and managed,

³¹ In relation to Principle 8, Practices 2, 3 and 4 and Protocol 3, Practice 3 of the *Code of Practice*

³² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/485670/Statement_on_Quality_Strategy_Principles_and_Processes_updated_December_2015.pdf

³³ http://ec.europa.eu/eurostat/documents/64157/4392716/qaf_2012-en.pdf/8bcff303-68da-43d9-aa7d-325a5bf7fb42

and in the mechanisms that they have put in place to meet their obligations under the Freedom of Information Act. Because of these differences, there could be a degree of inconsistency in the way in which bodies have interpreted and applied the definition of an 'information request' for monitoring purposes. However, the statistics count those requests which have been dealt with by each monitored body formally under the FoIA. As such, the statistics report on how many such requests for information each monitored body has received and how they have implemented the Act's requirements in providing responses. Direct comparisons between the statistics for different monitored bodies can therefore be made on this basis'. One user told us that the Health and Safety Executive (HSE) deals with requests from solicitors for information about accidents or deaths at work under the FoIA and these requests are added to the official statistics' data collection. The HSE told us that approximately 80% of their total FoIA requests are legal requests. Since the HSE had the largest number of requests of all departments in 2015 (4,942), the Authority considers that CO should mention in *FoI Statistics* that HSE's unique responsibility to perform investigations contributes to the large number of information requests made to it.

- 3.12 Some suppliers who submit data from dispersed bodies told us that they were unsure of the coverage that had been applied by their agencies. On a similar theme, users are concerned about whether the definitions of data under FoIA and EIR are applied consistently by departments. The statistical report notes 'there is likely to be a degree of inconsistency between monitored bodies' interpretation of the definition of an information request for monitoring purposes. This should be borne in mind when using these statistics'. The Authority considers that, as part of its quality assurance processes, CO should make itself aware of the contents of recent internal audit reports about FoIA implementation produced within departments, to understand the culture of reporting and to enhance the trustworthiness and value of these statistics by explaining clearly the risks to data quality brought about by the various interpretations of requests under the FoIA.
- 3.13 Many of the monitored departments and agencies have staff in widely dispersed offices entering their data on the use of the FoIA, which are then compiled centrally by the FoIA lead. Some of the suppliers we spoke to had installed a dedicated case management system and trained staff how to use it, but not all bodies had such software. Suppliers told us that they used the information that they collected to monitor their own performance against the FoIA and to provide help and training for teams who were not performing to the timescale. CO provides an Excel template for each FoIA lead to complete each quarter and suppliers were generally content with this. There is an opportunity for CO to enhance the quality (and the understanding of quality) of these statistics by providing refresher training to suppliers (on the use of the data collection template) to mitigate data entry errors. The training could also ensure that all staff receiving and logging requests for information interpret the requests for information in a consistent way.
- 3.14 Most liaison between the statistics team and the data suppliers is by email, but suppliers are also encouraged to contact the statistics team by telephone, especially if they have any queries. The statistics team does not have any routine face to face communication with its data suppliers and some suppliers

told us that they would like an annual forum to assist them to learn from each other and to learn from CO. Some suppliers were concerned that CO did not understand the steps that they go through to supply the data, nor the burden placed on them and felt that at least an annual forum would assist CO to understand the suppliers' point of view.

- 3.15 Suppliers do not send any information to CO about the quality of the responses made under the FoIA, only the time taken to respond and any exemptions applied. However, many suppliers noted the risk that exemptions applied might not have been recorded in their data and this was usually only checked for a selection of cases. Some suppliers were able to verify the quality of the data entry by going back to the individual FoIA responses, but many suppliers did not have the resource to perform these simple checks. Suppliers told us that senior staff for the monitored body are usually involved in signing off the data before they are sent to CO, which should provide a degree of assurance in the quality of the data submitted.
- 3.16 We received evidence about the data collection arrangements and the statistics team told us that they perform internal quality assurance checks and apply data validations using Visual Basic for Applications³⁴ (VBA) code. The code is contained within the collection template and its purpose is to ensure that the data submitted match data definitions for the relevant field. The statistics team will contact submitting departments if they have any queries on the data submitted; and they routinely send a copy of the near-final figures to each department for quality assurance purposes. In the annual summary, the statistics team performs an additional cross-check to map organisations' annual returns to their quarterly submissions, by including a reference to previously supplied data.
- 3.17 On 21 May 2015, the Authority published a report titled *Official statistics, performance measurement and targets*³⁵. It notes that 'Regardless of the type of data source (administrative data or statistical survey), statisticians should consider the possible distortive effects of any measures or targets – taking advice from practitioners – and where possible take action to address these effects in the design of the data collection'. Although the percentage of requests taking longer than 100 days to resolve is very small³⁶, we ask in Requirement 2 that CO explores the cost-benefit of collecting and publishing a finer breakdown of the number of cases with delays over 100 working days. This would prevent any possible perverse incentives for departments to not respond to those cases taking over 100 days (see also paragraph 3.8).
- 3.18 In summary, there are several risks to data quality and possibilities for the introduction of statistical bias during the collection of the FoIA data which CO should investigate. These are: data entry error; differing interpretation of requests for information; inconsistent application of exemptions; inconsistent recording of exemptions and possible distortive effects of the performance targets. In addition to discussing data quality arrangements with its suppliers, CO should obtain and use the results of internal audit reviews about the FoIA

³⁴ Visual Basic for Applications is a programming language

³⁵ https://www.statisticsauthority.gov.uk/wp-content/uploads/2015/12/images-monitoringreview315officialstatisticsperformancemeasurementandtarget_tcm97-44608.pdf

³⁶ 0.1 per cent of total requests received in 2015

processes and reporting culture within departments to assure users about the quality of the data that it receives.

3.19 In light of the de-designation of police recorded crime statistics in January 2014 (in Assessment report 268), the Authority published³⁷ a regulatory standard that confirms the quality assurance arrangements that are required for statistics compiled using administrative data to comply with the *Code of Practice*. The *Administrative Data Quality Assurance Toolkit*³⁸ is the mechanism that the Authority is using to determine compliance in relation to four areas of practice:

- Operational context and administrative data collection
- Communication with data supply partners
- QA principles, standards and checks by data suppliers
- Producers' QA investigations & documentation

The judgment by statistical producers about the suitability of the administrative data for use in producing official statistics should be pragmatic and proportionate. It should be made in the light of an evaluation of the likelihood of quality issues arising in the data that may affect the quality of the statistics. It should also reflect the nature of the public interest served by the statistics. Statistical producers should determine the types of assurance and documentation required to inform users about the quality assurance arrangements for administrative data.

3.20 CO has published a Statement of Administrative Sources³⁹ (SoAS), mentioning the data collection used to produce *FoI statistics*.

3.21 As part of the designation as National Statistics, CO should publish information that assures users about the quality of *FoI statistics* that:

- a) Includes a description of the data collection processes and the quality assurance procedures associated with each of those steps, to give an indication of the reliability of the statistics
- b) Includes comprehensive supporting information about the quality of the statistics
- c) Covers all aspects of quality referred to in the ESS framework
- d) Highlights clearly the degree of comparability of *FoI Statistics* with those produced by other UK countries⁴⁰

As part of meeting this Requirement, CO should refer to the Authority's *Administrative Data Quality Assurance Toolkit*.

(Requirement 3).

Impartiality, integrity, and resourcing

³⁷ <http://www.statisticsauthority.gov.uk/assessment/monitoring/administrative-data-and-official-statistics/index.html>

³⁸ <http://www.statisticsauthority.gov.uk/assessment/monitoring/administrative-data-and-official-statistics/quality-assurance-toolkit.pdf>

³⁹

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/485671/Statement_of_Administrative_Sources_updated_December_2015.pdf

⁴⁰ In relation to Principle 4, Practices 2, 3 and 6 and Principle 8, Practice 1 of the *Code of Practice*

3.22 When *Fol statistics* was due to be transferred to CO in late 2015, the HoP made a successful case for the responsibilities for producing the statistics to lie with the Analysis and Insight team, reporting directly to him, rather than located with the related policy function. The HoP told us that he made this case for two key reasons: to ensure the integrity and independence of decision making in respect of the statistics; and to deliver the appropriate statistical infrastructure and skills base to provide users, including CO policy users, with a sound analytical service. The HoP has:

- Recruited a small skilled team from within Analysis and Insight to produce the statistics
- Ensured a reasonable handover period with statisticians from MoJ
- Confirmed that appropriate funding is in place to deliver *Fol Statistics* to the standards of the Code, and to implement a prioritised improvement programme during 2016 and 2017 – noting that some pragmatic choices will need to be taken within the context of resource constraints
- Developed and published statistical policies and standards⁴¹ including: a user engagement strategy; a revisions policy; a confidentiality policy; a compliance statement on pre-release access to statistics; quality guidelines; and a Statement of Administrative Sources
- Revisions policy – CO reports on the scale and reasons for revisions, providing a link to its revisions policy alongside the statistics
- Pre-Release Access – CO told us that it has reviewed the list of those people given restricted early access to the statistics 24 hours prior to their release and reduced the list⁴² from 17 to 13 people in April 2016. The Assessment team has requested information about the justifications for those still remaining on the list, which the HoP has agreed to provide

3.23 We welcome these commitments by CO to ensuring the integrity of the statistics. Detailed areas for improvement in respect of the statistics standards and policies are picked up throughout this report, but we have been impressed by the professionalism of the team during the course of this assessment. Within this context, however, it is important to recognise the importance of trust in the narrative around the statistics. CO is responsible for policy relating to the implementation of the FoIA by the Civil Service and as a department, must itself comply with this policy. While we have found no evidence to suggest any lack of integrity or objectivity among the statisticians, we think that CO can take some important steps to improve users' confidence in the trustworthiness of the statistics:

- As reported in paragraphs 3.1 to 3.3, CO currently has very little engagement with users of the statistics – we consider that an open and constructive ongoing dialogue with users would be very supportive of enhancing users' confidence
- We have already noted in paragraphs 3.9 to 3.21 that it is important that CO fully understands, and is able to communicate transparently, the

⁴¹ <https://www.gov.uk/government/statistics/cabinet-office-statistics-standards-and-policies>

⁴² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517833/Fol_statistics_implementation_in_central_government_-_pre-release_access_list.pdf

strengths and limitations of the statistics in relation to their use, and that this should be underpinned by stronger relationships with data suppliers

- CO needs to ensure that the narrative presented in support of the statistics is well-evidenced, rather than appearing speculative. For example, *FoI Statistics, 2015 and Q4*⁴³ included the following paragraph: 'The drop in the number of FoI requests received since 2013 may be due to an increase in the amount of data proactively published by government departments; the availability of previously made FoI request archives online; and an increased public awareness of what information is held by various departments.' CO did not evidence these statements, which one user suggested implied a causation that reflected well on the government. We consider that CO should use available data and intelligence to analyse and check the validity of such statements, and communicate to users the basis for its conclusions, so that they can be assured that they are firmly rooted in sound analysis

3.24 Reflecting the importance of achieving the National Statistics designation and the findings from this assessment, CO should demonstrate how it is adapting its engagement with users and data suppliers, and responsively developing the analysis and supporting narrative of *FoI statistics*, in order to enhance the trustworthiness of the statistics. As part of the designation as National Statistics, CO should publish its plan of proposed actions to increase trustworthiness, quality and public value in FoI statistics due for publications in September 2016⁴⁴ (Requirement 4).

Burden and confidentiality

3.25 *FoI statistics* are labelled as 'Implementation in Central Government'. However, the statistics report clearly explains that it presents statistics reported by 41 central government bodies, including 21 Departments of State and 20 'other monitored bodies'.

3.26 In 2010, Assessment Report 35 reported that 'MoJ used the results of a pilot data collection to determine which 'other monitored bodies' would be covered by the statistics. On the basis of this pilot study MoJ decided to omit some bodies from the statistics (notably those without a central FoIA secretariat) due to concerns about the resource burden their inclusion would impose and concerns about data quality'. At the time, this was considered a sensible judgement to balance user needs and respondent burden. However, there is no evidence to indicate whether, other than to reflect routine machinery of government changes, any review of the continued relevance of the statistical population to decision makers has since been undertaken.

3.27 Data suppliers we spoke to as part of this assessment, reported mixed experiences in providing data – taking from 4 hours to 10 days to complete returns. A number of factors seemed to influence these estimates: the number and complexity of requests handled; the operational arrangements for answering FoIA requests; the experience of the staff; and the sophistication of

⁴³ <https://www.gov.uk/government/statistics/freedom-of-information-statistics-october-to-december-2015-and-annual>

⁴⁴ In relation to Principle 2, Practices 2, 3 and 6 and Protocol 2, Practice 7 of the *Code of Practice*

management information systems – some of which could produce automated validated reports while others required different degrees of manual intervention. Different data suppliers also reported different interpretations of the data required – some covered the central department only while others reported for agencies and arm’s length bodies. The general feedback from data suppliers, as part of this assessment, was that CO and the data suppliers would both benefit greatly if CO could facilitate better engagement, guidance, and sharing of good practice. They would also be keen to understand how each element of the data provided informs decision making, to be convinced that each brings some value.

- 3.28 The Burns Commission report noted that ‘the Commission has been frustrated by the lack of reliable statistics on compliance with the Act across the public sector. We recognise that the lack of statistics from across the wider public sector makes the job of monitoring and enforcing compliance with the Act significantly harder’. While we do not consider that this finding means that this set of National Statistics should automatically be expanded to report on all of the public sector, it provides important context for future decisions on the coverage of the statistics and how they are contextualised for users. The need of ICO for more timely data to monitor compliance with the FoIA is also an important consideration (see also paragraph 3.6).
- 3.29 Users we spoke to as part of this assessment had mixed requirements and generally identified full public sector coverage as ‘nice to have’. Although one user did point to the approach being taken by the Scottish Information Commissioner, who established a central portal to record FoI requests⁴⁵, together with the Scottish public authorities who provide the data, as a potential model for other countries of the UK. This system allows users to analyse different cuts of the data.
- 3.30 The HoP at CO told us that he is keen to revisit the coverage of the statistics in the context of current user needs, including those identified by the Burns Commission, and obtain a better understanding of the respondent burden, since CO does not have up-to-date estimates of the resource commitment required by data suppliers.
- 3.31 As part of the designation as National Statistics, CO should build on the culture of engagement outlined as part of Requirement 1 to:
- a) Review the coverage of *FoI statistics* and determine an optimum balance between the benefits arising from the use of the statistics and the cost burden to data suppliers
 - b) Publish plans and timescales of any potential changes to the collection following the Burns Commission report⁴⁶
- (Requirement 5)
- 3.32 CO has published details of its arrangements for protecting the confidentiality of data collected for use in official statistics. All of its statisticians have signed a declaration of their obligations in respect of protecting data confidentiality and are required to attend mandatory training. The information provided to CO for *FoI statistics* is non-disclosive.

⁴⁵ <http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.aspx>

⁴⁶ In relation to Principle 6 of the *Code of Practice*

Annex 1: Summary of assessment process

A1.1 This assessment was conducted from January 2016 to July 2016.

A1.2 The Assessment team – Caroline Jones and Donna Livesey – agreed the scope of and timetable for this assessment with representatives of CO in January 2016. The documentary evidence was provided in February 2016. The Assessment team subsequently met the statistics team at CO during April 2016 to review compliance with the *Code of Practice*, taking account of the all evidence provided and researched.

Summary of users contacted

A1.3 Part of the assessment process involves our consideration of the views of users. We approach some known and potential users of the set of statistics, and we invite comments via an open note on the Authority’s website. This process is not a statistical survey, but it enables us to gain some insights about the extent to which the statistics meet users’ needs and the extent to which users feel that the producers of those statistics engage with them. We are aware that responses from users may not be representative of wider views, and we take account of this in the way that we prepare Assessment reports.

A1.4 The Assessment Team spoke directly with eight users. In addition, the Assessment team received email responses from the user engagement. The respondents were grouped as follows:

Regulator	1
Central Government	2
Media	1
User suppliers	9
Lobby group	3

Key documents

- Cabinet Office statistics: Standards and policies
- Other documents provided by Cabinet Office included the following: Organisation chart; job descriptions; data collection instruments

Annex 2: Summary of the Freedom of Information Act 2000

A2.1 The Act applies to more than 100,000 public bodies in England, Wales and Northern Ireland. It gives a general right of access to recorded information held by bodies subject to the Act. It requires that any written request be answered within 20 working days. Where a request requires consideration of the public interest balance, the statutory time limit for responding can be extended. The Act does not, however, apply to requests for environmental information or one's own personal data. These are considered under the Environmental Information Regulations 2004 (or, in Scotland, the Environmental Information (Scotland) Regulations 2004) and the subject access provisions of the Data Protection Act 1998 respectively.

A2.2 There are 24 exemptions to the general right of access. These exemptions are, in summary:

Section 21 – information accessible to the applicant by other means

Section 22 – information intended for future publication

Section 22A – information obtained in the course of, or derived from, a pre-publication research programme (from 1 October 2014)

Section 23 – information supplied by, or relating to, bodies dealing with security matters

Section 24 – information which must be exempt for the purpose of safeguarding national security

Section 26 – information that would, or would be likely to, prejudice defence

Section 27 – information that would, or would be likely to, prejudice international relations

Section 28 – information that would, or would be likely to, prejudice relations between administrations within the United Kingdom

Section 29 – information that would, or would be likely to, prejudice the economy

Section 30 – information that is held for the purposes of an investigation or bringing proceedings

Section 31 – information that would, or would be likely to, prejudice law enforcement

Section 32 – information held within court or tribunal records, or the records of a public inquiry

Section 33 – information that would, or would be likely to, prejudice audit functions

Section 34 – information which must be exempt for the purpose of avoiding an infringement of the privileges of either House of Parliament

Section 35 – information which relates to the formulation of government policy, Ministerial communications, the provision of advice by the Law Officers, or the operation of any Ministerial private office

Section 36 – information that would, or would be likely to, prejudice the conduct of public affairs

Section 37 – information that relates to communications with the Royal Family and Household and honours

Section 38 – information that would, or would be likely to, endanger health or safety

Section 39 – information which is within the scope of the Environmental Information Regulations

Section 40 – information which is personal data

Section 41 – information, the release of which, could lead to an actionable breach of confidence

Section 42 – information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings

Section 43 – information that would, or would be likely to, prejudice commercial interests, or which constitutes a trade secret

Section 44 – information the release of which is prohibited (e.g. by another enactment)

- A2.3 Most of these exemptions require the public authority to consider the public interest balance – these are referred to as ‘qualified’ exemptions. Where the public interest in releasing material subject to an exemption outweighs the public interest in withholding it, then the material cannot be withheld under that exemption. Where no such public interest balancing is required, the exemption is said to be ‘absolute’. In addition to the public interest test, several exemptions require a ‘prejudice’ test to be satisfied before information can be withheld under that exemption.
- A2.4 The Act provides exemptions for requests which exceed the ‘appropriate limit’ (or ‘cost limit’). The cost limit is specified in regulations and is set at £600 for central government departments, and £450 for other public authorities. Staff time is calculated at a rate of £25 per hour and so this is equivalent to a limit of 24 hours for central government and 18 hours for other public authorities. The Act also provides for an exemption for requests which are ‘vexatious’, and for requests which are repeated (unless a reasonable interval has elapsed).
- A2.5 If a request is refused, the requestor must be notified in writing by the public authority, and must be informed of any right of review. While the Act does not create a statutory right of review, the Code of Practice made under section 45 of the Act states that public authorities should have a complaints procedure. There is no time limit for such ‘internal reviews’, but the Code requires that they be dealt with in a reasonable time.
- A2.6 Where a request continues to be refused in whole or in part, the requestor can appeal to the independent ICO. The ICO may issue a decision notice stating whether the public authority’s refusal is upheld or not. Where the ICO upholds the decision of the public authority, the requestor can appeal to the First-tier (Information Rights) Tribunal. Where the ICO overturns the decision of the public authority, the public authority can appeal to the Tribunal. If an appeal is

unsuccessful, then further appeals on points of law can be heard by the Upper Tribunal, the Court of Appeal, and ultimately the Supreme Court.

A2.7 The Act also contains a power which allows a Cabinet Minister, on reasonable grounds, to overrule a decision issued by the ICO, or a reviewing court or tribunal. This power of 'veto' remains subject to the oversight of the courts because it is subject to challenge by judicial review. Ministerial undertakings were given during the passage of the Bill that any power to exercise the veto should be the subject of collective Cabinet agreement.

