

PERTH AND KINROSS COUNCIL**Scrutiny Committee****12 June 2013****FOI Performance Report 2012****Ian Innes, Head of Legal Services****PURPOSE OF REPORT**

This report describes the Council's FOI performance for the year 2012. This information is reported annually following the completion of the requests received in each calendar year.

1. BACKGROUND / MAIN ISSUES

- 1.1 The Freedom of Information (Scotland) Act 2002 was fully implemented in January 2005 and established a general public right of access to all information held by Scottish public authorities.

It was agreed that the Council's performance should be reported annually to the Executive Officer Team and the Scrutiny Committee.

Requests received under the Environmental Information Regulations (Scotland) 2004 are included in the report, but are not generally mentioned separately.

REQUESTS RECEIVED

- 1.2 During 2012, the Council received 1070 FOI requests. This represents an increase of just over 11% from 2011.

Year	2007	2008	2009	2010	2011	2012
Requests	432	567	697	871	961	1070

The actual number of requests was the highest received by the Council in any year and the increase (10%) was in-line with the previous year's (10%).

- 1.3 The number of requests received on a monthly basis continues to show considerable fluctuation throughout the year and does not conform to any obvious pattern. Comparison with figures from previous years confirms that it is impossible to anticipate peaks and troughs on a monthly basis, but in most months the Council now receives more than 80 requests.

- 1.4 Analysing the requests based on the type of applicant shows that the general public remains the largest group of applicants.

	2010		2011		2012	
	No.	No.	No.	%	No.	%
Individuals	346	40	320	33	496	46
Media	189	22	268	28	196	18
Legal	30	3	37	4	76	7
Business	95	11	150	16	125	12
Elected representatives	126	14	75	8	96	9
Interest groups	78	9	105	11	64	6
Other	7	1	6	1	17	2

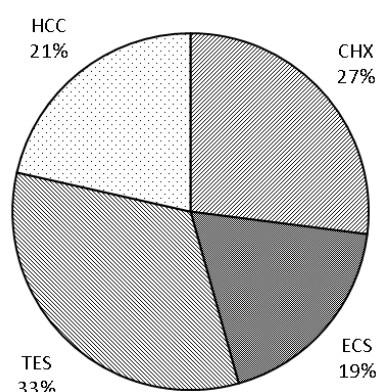
The number of requests received from the public has increased by more than 50%.

Media organisations and journalists remain the second largest source of requests but the number of requests received from that group has decreased by approximately 25%.

The number of requests received from businesses has remained high and they continue to be the third largest group of requesters.

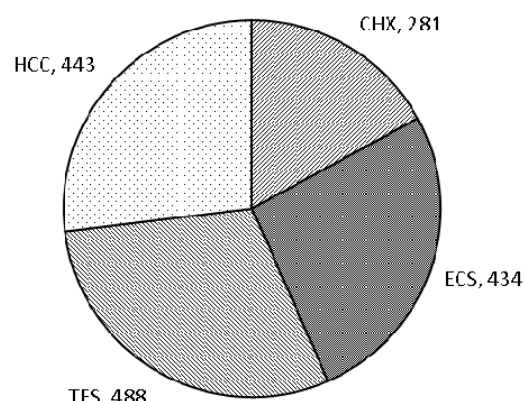
- 1.5 During the year requests were received from 604 different requesters. The vast majority (418) made only one request, and a further 127 requesters made fewer than 10 requests each. The remaining 9 requesters made 209 requests between them. These requesters comprise two individuals (66 and 12), four media organisations (51 in total), two businesses (47 and 17) and a political party (13).

- 1.6 Any one request may require information from more than one Service. This diagram shows the split of the requests for information by Service and indicates that the Environment Service received the most requests followed by the Chief Executive's Service.



- 1.7 The number of requests does not necessarily reflect the amount of time spent dealing with them. This diagram shows the amount of time recorded as spent responding to requests (in hours).

Reasonably, the Environment Service, having received most requests, spent most time dealing with them. The time spent by Education and Children's Services and Housing and Community Care reflects the complexities of obtaining information. In particular, information requested from Education and Children's Services is often held in schools and this can add significantly to the total time taken to gather the information.



Many of the requests directed to the Chief Executive's Service are readily satisfied from central management information systems and require a relatively short time to retrieve the information.

- 1.8 On average the amount of time recorded as spent in responding to an FOI request within each Service is

	Average Time (hours)
Chief Exec	1.0
Education & Children's Services	2.1
Environment Service	1.3
Housing & Community Care	1.9

The overall average is 1.5 hours spent on each request by Services which is a slight increase from 1.4 hours in 2011.

This excludes time spent by the central FOI team, which amounted to approximately 1.7 hours on average for each request during 2012. This is down from 3.8 hours in 2011.

- 1.9 51 of the requests received were dealt with under the Environmental Information (Scotland) Regulations 2004.

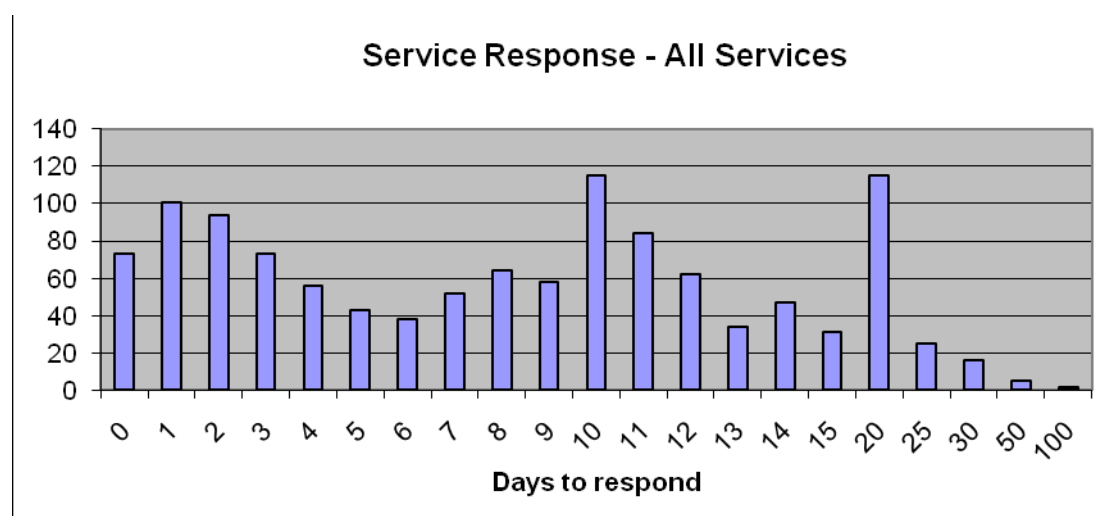
PERFORMANCE

- 1.10 Of the requests received, 55% were satisfied in full and a further 28% were satisfied in part. The remaining 17% received no information at all. In other words, 83% of the requests received at least some of the information asked for. This pattern is very similar to previous years.

- 1.11 The predominant reasons for not supplying information were because the Council didn't have it (51% of cases); because it included personal information (19%); or because it was available elsewhere (12%).
- 1.12 During the year, 17 requests were refused completely or in part because of excessive cost. The costs of satisfying these requests were estimated ranging from £682 to £44,628, with an average cost of approximately £13,147.
- 1.13 Of the requests received, 94% were completed within the statutory 20 working-day timescale. This does not meet the Council's target of 95% and is a reduction in performance from the preceding two years.
- 1.14 63 requests were not completed within the statutory timescale. Eleven of the late requests were completed on day 21 and nine on day 22. A further 34 were completed by day 30. There were nine occasions when it took longer than 30 days to complete the response.

This represents a decline from the previous year when only 45 requests were late.

- 1.15 This situation can be clarified somewhat by considering the number of days that Services take to supply the information to the FOI Team compared to the nominal target of 10 days.



Overall, 35% of the responses from Services to the FOI Team took more than the target of 10 days. In many cases, however, this was by arrangement with the FOI Team, taking account of the particular circumstances of the request and the section providing the information.

There were 48 occasions when Service responses to the FOI Team took longer than 20 days. This explains the reason for a late response to the applicant in the vast majority of the cases. However, there were 15 occasions where the delay was simply due to the volume of work at that time within the FOI Team.

- 1.16 The average time for the response to a request was 12.0 days compared to 12.2 days in 2011.

ESTIMATED COSTS

- 1.17 The total cost to the Council of responding to FOI requests in 2012 is estimated at £94,977. This gives an average cost of approximately £88 for each request (compared to £87 in 2011).
- 1.18 The Council has not, to date, charged for FOI requests. It remains the position that the Council will not normally charge for providing information in response to a request unless it is information for which a charge is ordinarily set.

It is estimated that, under the statutory charging scheme, the Council would have been able to charge on approximately 70 occasions (out of 1070) and the total amount chargeable would have been approximately £728.

The actual cost of responding to these particular requests is estimated at £14,281.

- 1.19 The cost of raising 37 invoices and recovering the charges would be approximately £1,680.

REVIEWS AND APPEALS

- 1.20 The Council received 40 requests to review its decision (complaints), which represents approximately 4% of the requests. This compares to 22 reviews (2%) in 2011.
- 1.21 Two of the reviews were withdrawn by the requester. One review was rejected as permitted by the legislation because the original request was considered to be vexatious.
- 1.22 All except three of the reviews were completed within the 20 working-day deadline. The exceptions were due to the absence of key staff during the period of the review.
- 1.23 Of the 37 reviews completed, 28 upheld the original decision. Six reviews overturned the original decision, but only on a technicality. Three reviews overturned the original decision and supplied additional information to the requester.
- 1.24 Four requests were appealed (dissatisfied with the result of the review) to the Scottish Information Commissioner during 2012. In addition, there was one appeal made in 2011 which was decided during 2012.

One appeal upheld the Council's decision completely and two appeals partially upheld the Council's decision. Additional information was released to the requester in both cases either by the Council during the investigation or as

ordered by the Commissioner. One appeal was withdrawn and one is still the subject of investigation by the Commissioner.

CUSTOMER SATISFACTION

- 1.25 Customer satisfaction surveys for FOI were conducted during 2012, both for internal customers and external customers.

The internal survey was only undertaken for a month, but the external survey was run all year.

- 1.26 Response rates to both surveys were disappointingly low. Only 9 responses were received to the internal survey and 75 for the external.

- 1.27 It is felt that the number of responses to the internal survey is too low to permit any meaningful evaluation of the feedback received.

- 1.28 The number of responses to the external survey is low, but is probably enough to give an indication of the level of satisfaction. The main findings are summarised as follows: -

The response answered the request	81% very or fairly satisfied
Time to respond to the request	90% very or fairly satisfied
Overall service received	84% very or fairly satisfied

ISSUES ARISING

- 1.29 The FOI Team and employees dealing with FOI in Services are to be commended for their continuing good performance during 2012 in maintaining the Council's response rate while again dealing with significantly more requests than the previous year.

- 1.30 The projection made last year suggesting a gradual slowing of the annual increase in requests received has proved to be inaccurate. The annual increase for the last two years has steadied at approximately 10% and it is assumed that this will continue for the next year or two. This would suggest approximately 1180 requests during 2013.

- 1.31 The response rate for 2012 was very good although just short of the target of 95%. This target is likely to be difficult to achieve in future years as the number of requests continues to rise.

- 1.32 The number of requests for review received by the Council increased significantly, but the outcomes largely upheld the original responses. This suggests that, despite the increase in the number of requests, the FOI Team's responses continue to be of a high quality.

- 1.33 Part way through the year it was recognised that the increasing number of requests meant that the FOI Team were working at full capacity. This was

evidenced by holiday periods or other periods of prolonged employee absence presenting significant performance problems. To address this, the complement of the team was increased from 1.8 FTE to 2.3 FTE within existing budget provision. The additional resource will also allow the team to undertake some work related to Data Protection.

- 1.34 The FOI Team continues to maintain a close working relationship with senior management teams through a number of measures. These include a weekly report of outstanding and recently completed requests, monthly reports for each Service showing the requests they dealt with and the time spent on each, and meetings with senior management teams and the Services' FOI Coordinators.
- 1.35 The FOI Team has also delivered a number of training and awareness sessions about FOI for Services during the year and they have been well-received.
- 1.36 The revised eLearning module for FOI was completed and was made available in March 2012.
- 1.37 The external customer satisfaction surveys has been revised and significantly shortened for 2013 in the hope of increasing the response rate.
- 1.38 The new Scottish Information Commissioner, Rosemary Agnew, took up office in 2012 and has recently set out her position on the need to extend the coverage of FOISA to ensure public accountability.

The Commissioner accepted an invitation to meet the Chief Executive prior to a speaking engagement in Perth.

- 1.39 The Freedom of Information (Amendment) (Scotland) Act was approved by the Scottish Parliament in January 2013 and comes into force on 31 May 2013. The Act makes a number of small, but important, changes, mostly of a technical nature. The amendments will have little impact on the day-to-day operation of FOI in the Council.

EXTERNAL INVOLVEMENT

- 1.40 The Council is represented regularly on the FOI / DP group of the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR).
- 1.41 Representatives of the Council regularly attend seminars organised by the Centre for FOI in Dundee.
- 1.42 Representatives of the Council attend the annual FOI Conference organised in conjunction with the Scottish Information Commissioner.
- 1.43 A member of the FOI Team has successfully completed the recently-launched Practitioner Certificate in The Freedom of Information (Scotland) Act 2002.

The benefits of this will be evaluated with a view to extending it to the other members of the team.

COMPARATIVE INFORMATION

- 1.44 The Council co-ordinated the collection of annual FOI performance information for 2012 from local authorities under the auspices of the SOLAR DP / FOI group. This exercise proved harder than anticipated: information was received from 22 authorities including Perth & Kinross but differences in recording methods means that very few authorities were able to provide all the information requested making detailed comparisons difficult.
- 1.45 All authorities providing information were able to provide volume and performance statistics as follows: -

Authority	No. of requests	% within timescale
Aberdeen City	1355	78%
Aberdeenshire	941	81%
Argyll & Bute	973	90%
Clackmannanshire	658	98%
Dumfries & Galloway	950	87%
Dundee City	916	62%
East Ayrshire	788	88%
East Lothian	984	80%
Falkirk	1052	80%
Fife	1877	82%
Inverclyde	818	93%
Midlothian	793	94%
Moray	741	92%
North Ayrshire	868	96%
North Lanarkshire	1297	99%
Orkney	721	64%
Perth & Kinross	1070	94%
Renfrewshire	659	99%
Shetland	649	85%
South Ayrshire	1104	83%
South Lanarkshire	1324	87%
Stirling	910	73%

- 1.46 From this information it can be noted that the Council received a relatively high number of requests and achieved a very good performance rate.
- 1.47 It is intended to discuss possible differences in practice with other comparable authorities with the aim of identifying ways in which the Council could improve.

- 1.48 It had been intended to refine and repeat this exercise annually, but the Scottish Information Commissioner has now requested that all public authorities submit standardised statistical information on a quarterly basis from the first quarter of 2013-14 onwards with intention of reporting on the information annually.
- 1.49 The Commissioner has recognised that not all authorities currently record the information she has requested, but has asked authorities to provide what they can and work towards providing all the information.
- 1.50 The Council does not yet record information to the level of detail requested and is currently assessing how best to address the Commissioner's requirements.

2. PROPOSALS

- 2.1 The performance target for responding to FOI requests will remain at 95% for 2013. This remains a challenging target, but it is still felt to reflect the reasonable expectation that almost every request should be completed within the statutory timescale.

3. CONCLUSION AND RECOMMENDATION(S)

- 3.1 The Council's performance on FOI continues to be very good.
- 3.2 FOI helps to provide an assurance of openness and transparency to the public in their dealings with the Council and it is essential that this service continues to operate to a high standard. It also acts as a reminder to the Council to manage its information well and, in particular, to maintain good, accessible records.
- 3.3 The Committee is asked to
- a) note the report and highlight any matters of concern
 - b) confirm the FOI performance target for the Council for 2013 of 95%

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Approved

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Date 6 June 2013		

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Council Text Phone Number 01738 442573

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Single Outcome Agreement	None
Strategic Plan	None
Resource Implications	
Financial	None
Workforce	None
Asset Management (land, property, IT)	None
Assessments	
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal	None
Risk	None
Consultation	
Internal	None
External	None
Communication	
Communications Plan	None

1. Strategic Implications

Single Outcome Agreement

1.1 N/A

Corporate Plan

1.2 N/A

2. Resource Implications

Financial

2.1 There are no resource implications arising from this report.

Workforce

2.2 There are no workforce implications arising from this report.

Asset Management (land, property, IT)

2.3 There are no resource implications arising from this report

3. Assessments

Equality Impact Assessment

- 3.1 The proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) and assessed as **not relevant** for the purposes of EqIA.

Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals. However, no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

Sustainability

- 3.3 N/A

Legal and Governance

- 3.4 N/A

Risk

- 3.5 N/A

4. Consultation

Internal

- 4.1 None

External

- 4.2 None

5. Communication

- 5.1 None

2. BACKGROUND PAPERS

None

3. APPENDICES

None