

PERTH AND KINROSS COUNCIL

SCRUTINY COMMITTEE

12 JUNE 2019

FOI PERFORMANCE REPORT 2018-19

Report by Head of Legal & Governance Services (Report No. 19/181)

PURPOSE OF REPORT

This report describes the Council's performance in relation to its obligations under the Freedom of Information (Scotland) Act 2002 and Environmental Information (Scotland) Regulations 2004 for the year 2018-19.

The report also provides an overview of some of the Council's other information-related activities.

1. BACKGROUND

- 1.1 The Freedom of Information (Scotland) Act 2002 ("FOISA") was fully implemented in January 2005 and established a general public right of access to all information held by Scottish public authorities.
- 1.2 The Environmental Information (Scotland) Regulations ("EIRs") was implemented alongside FOISA in January 2005 and provide a right of access to environmental information held by Scottish public authorities.
- 1.3 It has been agreed that the Council's performance in these areas should be reported annually to the Executive Officer Team and the Scrutiny Committee.
- 1.4 This is the report for the year 2018-19.

2. EXECUTIVE SUMMARY

- 2.1 The number of requests in 2018-19 increased by 8.5% from the preceding year.
- 2.2 The Council is performing to a high level and met its 95% target for responding to FOISA and EIRs requests for 2018-19, having dropped to 94% in 2017-18. Despite having this increase in requests, the recruitment of an Information Assistant has helped to ease the administrative burden for the four Information Officers, who have also been creative in looking for efficient and effective ways to maintain the current high standards of performance.
- 2.3 The Scottish Information Commissioner requires public authorities to supply details of FOISA and EIRs statistics on a quarterly basis. The information for the 12 months to March 2019 for local authorities ranks the Council 5th in terms of the percentage of responses issued on time.

- 2.4 The number of requests for review remain a small percentage of the total number received which would indicate good levels of customer satisfaction in terms of the quality the Council's responses and the effectiveness of our process.
- 2.5 There was a significant increase in both FOISA and EIRs requests and Subject Access Requests over the last year. It will be difficult to maintain the same levels of performance should this trend continue.

3. PERFORMANCE

Context: Requests Received

- 3.1 During 2018-19, the Council received 1682 requests for information under FOISA. This represents an increase of 8.5% from 2017-18 in line with the general trend as illustrated in Figure 1 below.

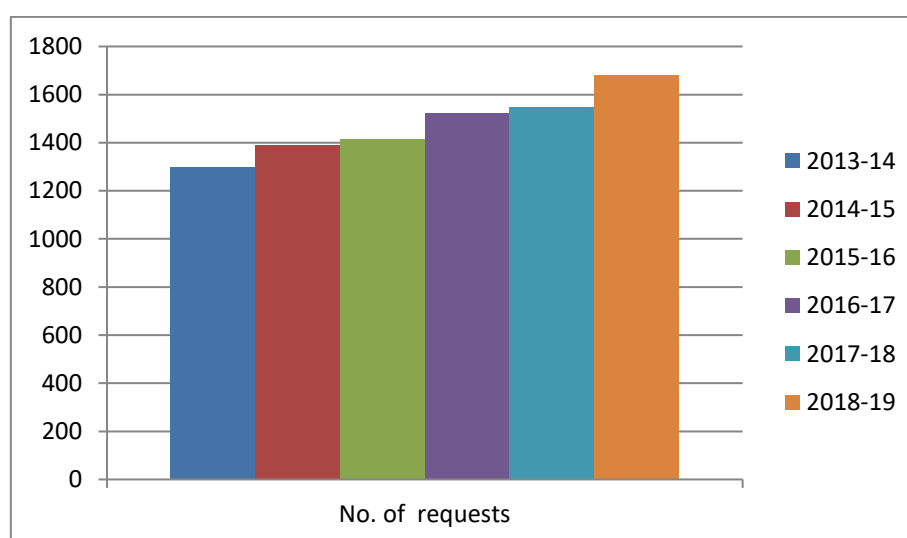


Figure 1 – Number of requests for information under FOISA / EIRS

- 3.2 Of the 1682 requests received: -
- 31 were subsequently rejected when clarification was not received from the applicant;
 - 11 were withdrawn by the applicant; and
 - 20 remain in process awaiting clarification from the applicant.
- 3.3 Of the 1682 information requests received, 133 were processed under the EIRs.
- 3.4 Figure 2 below shows the number of FOISA / EIRs requests received in the year broken down by month.

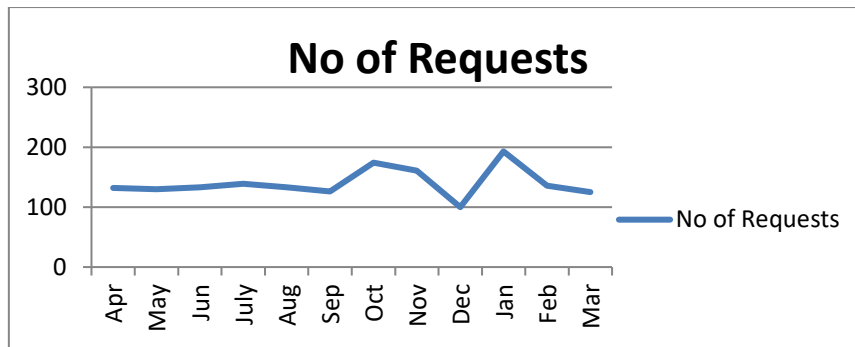


Figure 2 – Number of requests April 2018 to March 2019 by month

3.5 Analysing the requests based on the type of applicant shows the highest single group making requests are members of the general public. As a percentage of the total number, that equates to 44% of the overall total of requests received, a noticeable increase from 33% in 2017-18. A breakdown is illustrated at Figure 3 below:

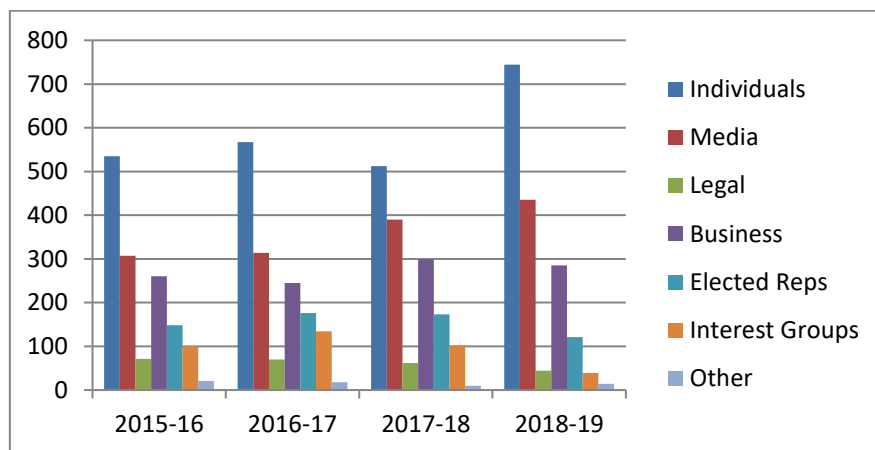


Figure 3 – Summary of Type of Applicant

3.6 In the course of the year, the Council may receive several requests from the same requester. During the year 2018-19 requests were received from 976 different requesters. The number of requests made is broken down as follows:-

- 788 requesters made a single information access request accounting for 788 requests
- 192 requesters making more than 10 requests each accounted for 586 requests
- 5 media organisations accounted for 172 requests
- 5 businesses accounted for 82 requests
- Scottish Parliament employees accounted for 17 requests
- 1 trades union accounted for 14 requests

Performance Monitoring

- 3.7 The statutory timescale for processing requests for information under FOISA and the EIRs is twenty working days with the option for extension in some circumstances.
- 3.8 During 2018-19, 95% of requests were completed within the statutory timescale, which meets the Council's target .
- 3.9 Reasons for delays in processing times were primarily due to the complexity and volume of the information requested. In some cases, the delay was due to the unavailability of relevant staff to provide the information (e.g. school information requested during school holiday periods).
- 3.10 Of the 1620 valid requests processed: -
- 714 requests (44%) were satisfied in full
 - 526 requests (32.5%) were satisfied in part
 - 380 requests (23.5%) resulted in no information being issued
- 3.11 Where information was not provided, 46 requests were refused completely or in part on the grounds of excessive cost – the estimated cost involved in processing being in excess of £600.
- 3.12 The predominant reasons for not supplying information in respect of the remainder were that the information requested was: -
- not held by the Council;
 - personal data or information otherwise exempt under FOISA;
 - already available to the public
- 3.13 The Information Governance Team are assessing the current request handling system and looking at options to procure and implement a new request management system which will reduce the time taken to administer requests.

Reviews and Appeals

- 3.14 The Council received 29 requests to review its decision (complaints about the initial response), which represents 1.7% of the total requests received. A breakdown of the relevant review data is contained in Figure 4:-

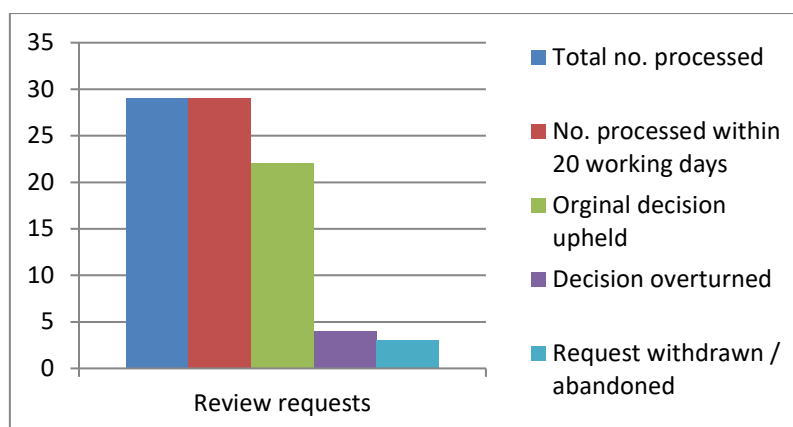


Figure 4 – Summary of request for reviews

3.15 All 29 reviews were processed within the statutory 20 working days deadline.

3.16 Of the 29 review decisions, 4 were subsequently appealed to the Scottish Information Commissioner during 2018-19.

- 2 appeals were withdrawn when the information sought was disclosed during the appeal
- 1 appeal was withdrawn as the complainant was satisfied the information was not held by the Council
- 1 appeal is still the subject of investigation by the Commissioner.

Surveillance & Interception of Communications

3.17 The Council has powers under the Regulation of Investigatory Powers (Scotland) Act to undertake directed surveillance and to utilise covert human intelligence sources. The Council also has powers under the Regulation of Investigatory Powers Act to obtain information ('intercept') about electronic communications.

3.18 Council officers have a duty to report on the use of these powers to the Council's elected members.

3.19 During the year, there no directed surveillance was authorised and no covert human intelligence sources were used.

3.20 During the year no electronic communications information was obtained.

3.21 The Council's policy statement on the use of directed surveillance and the interception of communications is attached as Appendix 1.

4. CONCLUSIONS AND RECOMMENDATIONS

4.1 The council's processes and procedures for handling information requests are adequate and effective in ensuring high levels of compliance and performance

4.2 The volume and complexity of requests present an ongoing challenge to meet response deadlines, particularly where this is a larger than anticipated increase.

4.3 It is recommended that the Scrutiny Committee: -

- (i) Consider and comment on this report
- (ii) Note the content of this report

Author(s)

Name	Designation	Contact Details
Donald Henderson	Information Governance Manager	Ext: 77933 Email: foi@pkc.gov.uk

Approved

Name	Designation	Date
Jim Valentine	Depute Chief Executive (Chief Operating Officer)	15 May 2019

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	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

Community Plan / Single Outcome Agreement

1.1 Not applicable.

Corporate Plan

1.2 Not applicable.

2. Resource Implications

Financial

2.1 Not applicable.

Workforce

2.2 Not applicable.

Asset Management (land, property, IT)

2.3 The Head of Finance and Support Services, Housing and Community Care has been consulted and has indicated agreement with the 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

- 3.2 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 Not applicable.

Legal and Governance

- 3.4 Part of the Governance framework.

Risk

- 3.5 Not applicable

4. Consultation

Internal

- 4.1 None

External

- 4.2 None.

5. Communication

- 5.1 None.

2. BACKGROUND PAPERS

None.

3. APPENDICES

Appendix 1 - Policy Statement – Directed Surveillance and Interception of Communications.