

PERTH AND KINROSS COUNCIL**Scrutiny Committee****23 April 2014****FOI Performance Report 2013****Head of Legal Services****PURPOSE OF REPORT**

This report describes the Council's FOI performance for the year 2013. 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 has been agreed that the Council's performance should be reported annually to the Executive Officer Team and the Scrutiny Committee.

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

REQUESTS RECEIVED

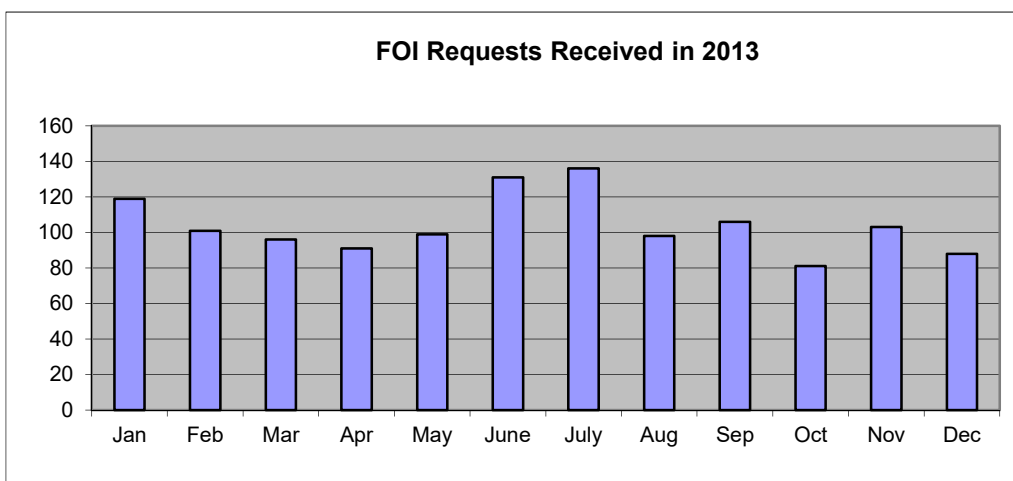
- 1.2 During 2013, the Council received 1249 FOI requests. This represents an increase of 16.7% from 2012.

Year	2008	2009	2010	2011	2012	2013
Requests	567	697	871	961	1070	1249

The number of requests received by the Council was the highest in any year and the increase (16.7%) was higher than 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.

Whilst holiday periods are traditionally quiet spells, July has proved to be one of the busiest months in recent years. This was the case again in 2013, with the Council receiving more requests in July (136) than any other month.



Comparison with figures from previous years confirms that it is impossible to anticipate peaks and troughs on a monthly basis, but on average the Council receives 104 requests per month, up from 89 per month in 2012. There were only two months in 2013 when the Council received fewer than 90 requests.

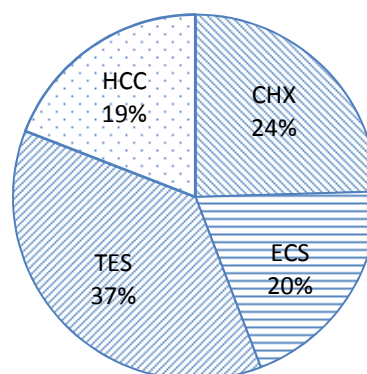
- 1.4 Analysing the requests based on the type of applicant shows that the general public remains the largest group of applicants.

	2011		2012		2013	
	No.	%.	No.	%	No.	%
Individuals	320	33	496	46	562	45
Media	268	28	196	18	243	19
Legal	37	4	76	7	86	7
Business	150	16	125	12	170	14
Elected representatives	75	8	96	9	106	8
Interest groups	105	11	64	6	75	6
Other	6	1	17	2	7	1

Media organisations and journalists remain the second largest source of requests, and businesses continue to be the third largest group of requesters.

Although the volume of requests increased in 2013, the percentage distribution of requests by type of applicant is almost identical to 2012.

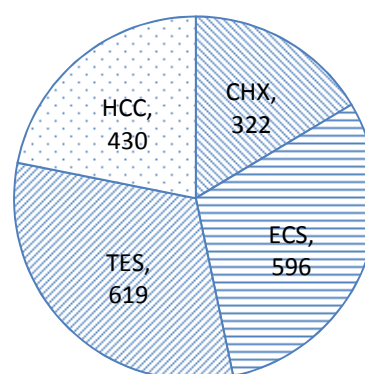
- 1.5 During the year requests were received from 710 different requesters. The vast majority (569) made only one request, and a further 130 requesters made fewer than 10 requests each. The remaining 11 requesters made 276 requests between them. These requesters comprise two individuals (49 and 18), three media organisations (57 in total), three businesses (95 in total), a political party and various elected representatives in the Scottish Parliament (44 in total) and an interest group (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 and checking it for accuracy.



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	0.9
Education & Children's Services	2.0
Environment Service	1.1
Housing & Community Care	1.5

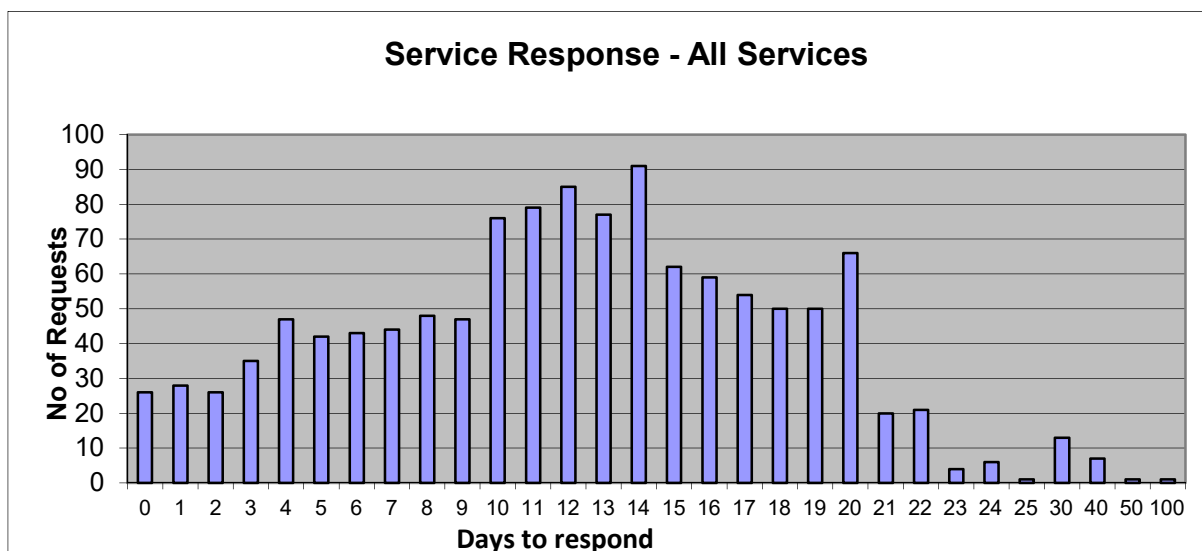
The overall average is 1.3 hours spent on each request by Services which is a slight decrease from 1.5 hours in 2012.

This excludes time spent by the FOI team, which amounted to approximately 3.3 hours on average for each request during 2013. This is down slightly from 3.4 hours in 2012.

- 1.9 115 of the requests received were dealt with under the Environmental Information (Scotland) Regulations 2004, an increase of 64 from 2012.

PERFORMANCE

- 1.10 Of the requests received, 55% were satisfied in full and a further 31.5% were satisfied in part. The remaining 13.5% received no information at all. In other words, 86.5% 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 (49% of cases); because it included personal information (12%); or because it was available elsewhere (6%).
- 1.12 During the year, 15 requests were refused completely or in part because of excessive cost. The costs of satisfying these requests were estimated ranging from £749 to £42,850.
- 1.13 Of the requests received, 94.5% were completed within the statutory 20 working-day timescale. This is just below the Council's target of 95% but is up slightly from 94% the previous year.
- 1.14 69 requests were not completed within the statutory timescale, six more than in 2012. 15 of the late requests were completed on day 21 and 21 on day 22. A further 22 were completed by day 30. There were 11 occasions when it took longer than 30 days to complete the response.
- 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. The agreed Council procedure specifies 10 working days for this.



Overall, 62% of the responses from Services to the FOI Team took more than the target of 10 days. This is significantly higher than 2012, where only 35% of the responses took more than 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 80 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, and is counterbalanced in some cases by the FOI Team issuing a partial response within the timescale.

- 1.16 The average time for the response to a request was 11.4 days compared to 12.0 days in 2012.

ESTIMATED COSTS

- 1.17 Based on the time recorded by Services as spent on dealing with each request and the overall cost of the FOI Team, the total cost to the Council of responding to FOI requests in 2013 is estimated at £105,416. This gives an average cost of approximately £84 for each request (compared to £88 in 2012).
- 1.18 This estimate provides a reasonable basis for year-on-year comparison, but is recognised as understating the actual cost.
- 1.19 The Council has not, to date, charged for FOI requests but reserves the right to do so. It remains the position that the Council, in common with most other public authorities, will not normally charge for providing information in response to a request.
- 1.20 The Council is limited in what it could charge by the statutory Fee Regulations. It is estimated that, under the regulations, the Council would have been able to charge on approximately 178 occasions (out of 1249) and the total amount chargeable would have been approximately £1,851.

The actual cost of responding to these particular requests is estimated at £14,950.

- 1.21 The cost of raising 178 invoices and recovering the charges would be approximately £4,270.

REVIEWS AND APPEALS

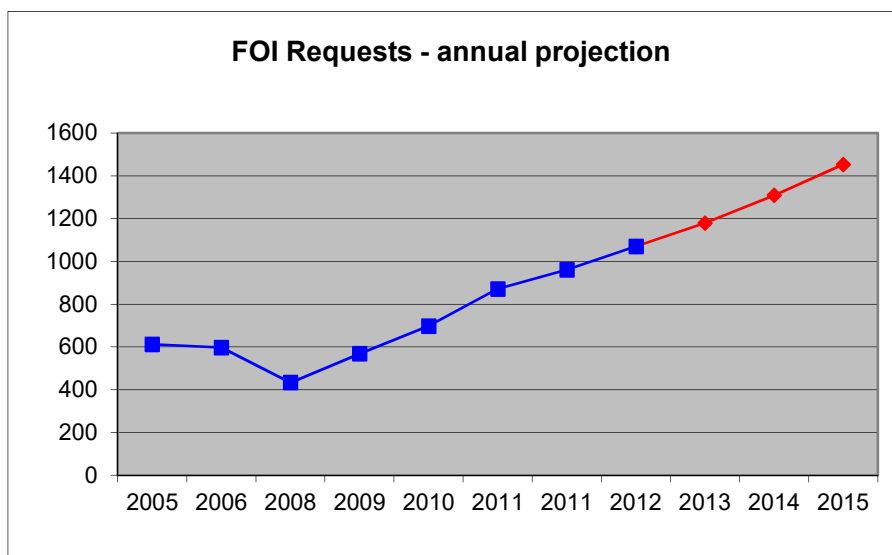
- 1.22 The Council received 34 requests to review its decision (complaints), which represents 2.7% of the requests. This compares to 40 reviews (approximately 4%) in 2012.
- 1.23 One review was subsequently withdrawn by the requestor.
- 1.24 All except six of the reviews were completed within the 20 working-day deadline. The exceptions were due to the absence of key staff during the period of the review.
- 1.25 Of the 33 reviews completed, 16 upheld the original decision and 17 overturned it.
- 1.26 Seven requests were appealed (dissatisfied with the result of the review) to the Scottish Information Commissioner during 2013. In addition, there were three appeals made in 2012 which were decided upon during 2013.

One appeal was withdrawn by the requestor, and one appeal was abandoned after the applicant failed to correspond with the Commissioner. The Council's decision was upheld in four of the appeals and was overturned in three. In all three cases additional information was disclosed either voluntarily by the Council during the investigation or as ordered by the Commissioner. The remaining appeal is still the subject of investigation by the Commissioner.

- 1.27 Of the three appeals which were upheld in the applicant's favour, two were due to the Council's failure to locate all the relevant information at an earlier stage and the other because information had been incorrectly withheld.

ISSUES ARISING

- 1.28 The FOI Team and employees dealing with FOI in Services are to be commended for their continuing good performance during 2013 in maintaining the Council's response rate while again dealing with significantly more requests than the previous year.
- 1.29 The projection of 1,179 requests for 2013 was underestimated by around 6% from the actual figure of 1,249. The increase in the previous year had been approximately 10% and it had been assumed that this would have continued for the next year or two.
- 1.30 It is currently anticipated that the number of requests will rise by just over 11% in future years. The graph below shows a projection for the next three years based on the number of requests received since 2005.



This would result in 1,390 requests in 2014, 1,545 requests in 2015, and 1,715 requests in 2016.

- 1.31 The response rate of 94.5% for 2013 has improved slightly from 2012, but the target of 95% is likely to continue to be difficult to achieve in future years as the number of requests continues to rise and additional duties are undertaken.
- 1.32 The number of requests for review received by the Council decreased slightly, although the outcomes largely did not uphold the Council's response.
- 1.33 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.
- 1.34 The FOI Team also delivered a training and awareness session about FOI to Legal Services staff which was well-received.
- 1.35 The FOI team routinely monitors incoming requests to identify subjects that might benefit from the publication of information. In practice, however, whilst common subjects can be recognized, the actual requests often cover significantly different aspects making it hard to identify information that can be usefully published.
- 1.36 Customer satisfaction surveys for FOI were conducted during 2013, both for internal customers and external customers. Despite revising and significantly shortening the surveys, the level of responses to both surveys was so low that no meaningful information can be extracted from them.
- 1.37 From 1 April 2013, the Scottish Information Commissioner required public authorities to supply details of FOI and EIR statistics on a quarterly basis. A new statistics portal has been launched on the Commissioner's website to collate and publish a range of data from Scottish Public Authorities. Two quarterly statistical returns have been made to date.

- 1.38 The statistics show that the Council received 663 FOI and EIR requests for the period April to September 2013. Only Glasgow City Council (1483), City of Edinburgh Council (1327) Fife Council (858) and Aberdeen City Council (745) received more requests during this timeframe. 13 of the 663 requests were issued late (2%), which compares favourably with the local authority average of 10% issued late during this period.
- 1.39 On 8 March 2013, the Policy and Governance Group approved the proposal that data protection requests for personal information ('subject access requests') were centralised within the FOI Team. In June the Team assumed responsibility for processing requests specific to Chief Executive's Service, and corporate requests for information held by more than one service. The Team will commence processing TES, ECS and HCC specific requests on a phased basis over the coming months.

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 Fife Council organised and hosted a number of networking meetings for FOI practitioners which the FOI Team attended.
- 1.44 Two of the three members of the FOI Team gained the Practitioner Certificate in the Freedom of Information (Scotland) Act 2002. It is hoped the third member of the team will gain their Certificate later this year.

2. PROPOSALS

- 2.1 The performance target for responding to FOI requests will remain at 95% for 2014. This remains a challenging target, particularly with the introduction of subject access request processing, 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 Scrutiny Committee is asked to:

- (i) note the report and highlight any matters of concern;
- (ii) note the FOI performance target for the Council for 2014 of 95%; and
- (iii) note the reporting of FOI performance information for local authorities.

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Name	Designation	Date
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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

