

PERTH AND KINROSS COUNCIL

SCRUTINY COMMITTEE

9 SEPTEMBER 2020

FOI PERFORMANCE REPORT 2019-20

Head of Legal & Governance Services (Report No. 20/157)

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 2019-20.

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 2019-20.

2. EXECUTIVE SUMMARY

- 2.1 The number of requests in 2019-20 decreased by 6.7% from the preceding year.
- 2.2 The Council continues to perform to a high level, but failed to meet its 95% target for responding to FOISA and EIRs requests for 2019-20.
- 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 The Council's response rate was adversely affected by the workload arising from subject access requests and by the impact of measures to cope with coronavirus. In particular, it should be noted that while the timescale to respond was extended in the Coronavirus (Scotland) Act, the extension was abolished in the subsequent legislation, meaning that all requests that had benefited from the extension were automatically late.

3. PERFORMANCE

Context: Requests Received

3.1 During 2019-20, the Council received 1569 requests for information under FOISA. This represents a decrease of 6.7% from 2018-19, contrary to the general trend as illustrated in Figure 1 below.

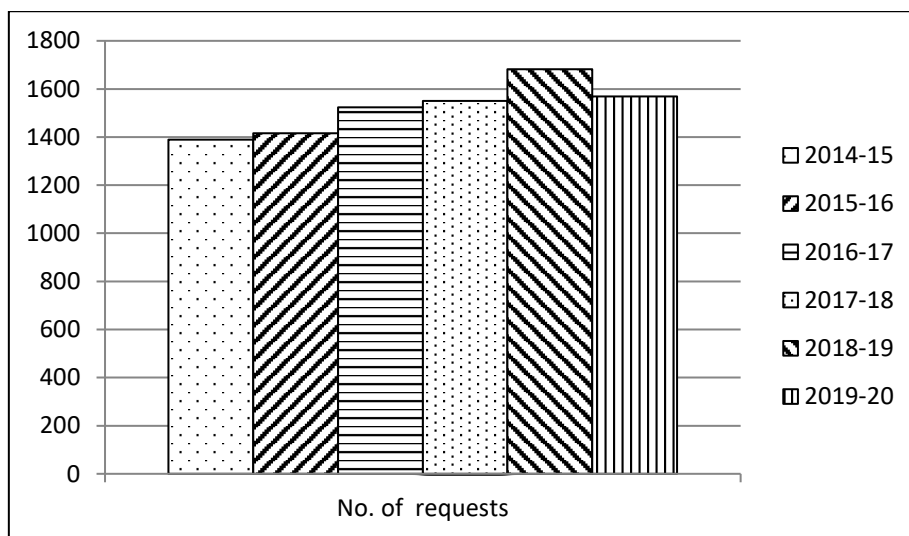


Figure 1 – Number of requests for information under FOISA / EIRS

3.2 Of the 1569 requests received: -

- 22 were subsequently rejected when clarification was not received from the applicant;
- 15 were withdrawn by the applicant; and
- 9 remain in process awaiting clarification from the applicant.

3.3 Of the 1569 information requests received, 239 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.

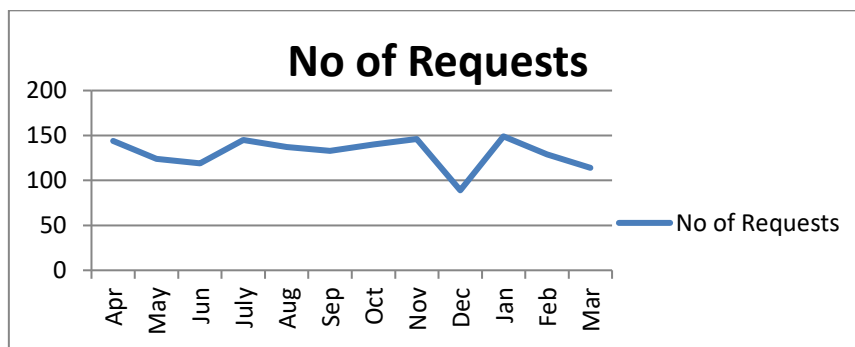


Figure 2 – Number of requests April 2019 to March 2020 by month

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 41% of the overall total of requests received, a small decrease from 44% in 2018-19. A breakdown is illustrated at Figure 3 below:

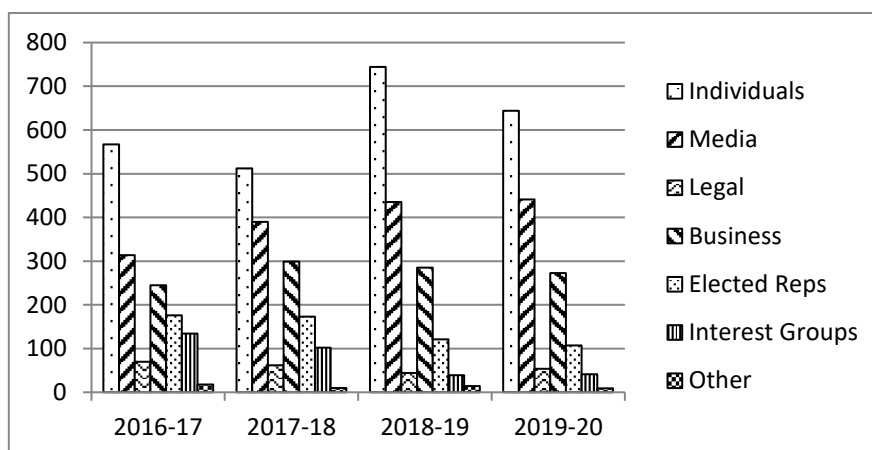


Figure 3 – Summary of Type of Applicant

3.6 In the course of the year, the Council may receive several requests from the same requester. During the year 2019-20 requests were received from 959 different requesters. The number of requests made is broken down as follows:-

- 774 requesters each made a single information access request
- 13 requesters making more than 10 requests each accounted for 244 requests
- 4 media organisations accounted for 71 requests
- 2 businesses accounted for 49 requests

In general, fewer requesters made large numbers of requests in comparison to previous years.

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 2019-20, 91% of requests were completed within the statutory timescale, which is below the Council's target of 95% for the first time in several years.
- 3.9 In general, the reasons for delays in processing times can be attributed to four causes:-
- (i) The complexity and volume of the information requested. In some cases, however, the delay was due to the non-availability of relevant staff to provide the information (e.g. school information requested during school holiday periods).
 - (ii) The Information Governance Section also processes subject access requests; several of these processed during the year have proved exceptionally time-consuming, which has impacted considerably on the overall workload.
 - (iii) The timescales for response were extended by the Coronavirus (Scotland) Act, but were subsequently abolished by the Coronavirus (Scotland) (No.2) Act. This had the effect of making any request that had benefited from the extension immediately late.
 - (iv) A number of the employees in the Information Governance Section were unable to work effectively from home for several weeks due to connectivity issues.
- 3.10 Of the 1523 valid requests processed: -
- 653 requests (43%) were satisfied in full
 - 518 requests (34%) were satisfied in part
 - 352 requests (23%) resulted in no information being issued
- 3.11 Where information was not provided, 35 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 36 requests to review its decision (complaints about the initial response), which represents 2.4% of the total requests received. A breakdown of the relevant review data is contained in Figure 4:-

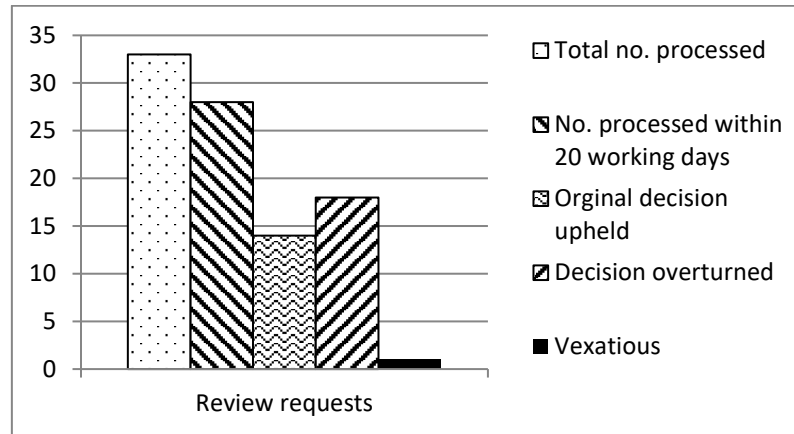


Figure 4 – Summary of request for reviews

- 3.15 5 reviews were processed outwith the statutory 20 working days deadline.
- 3.16 Of the 36 review decisions, 5 were subsequently appealed to the Scottish Information Commissioner during 2019-20, but all 5 are still under 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, 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.
- 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
Karen Donaldson	Interim Chief Operating Officer	11/08/2020

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.