

EAST RENFREWSHIRE COUNCILCABINET15 August 2019Report by Chief ExecutiveFREEDOM OF INFORMATION - COUNCIL PERFORMANCEFOR THE PERIOD JANUARY 2018-MARCH 2019**PURPOSE OF REPORT**

1. The purpose of this report is to present the annual report on the Council's performance in dealing with Freedom of Information requests.

RECOMMENDATION

2. It is recommended that Cabinet notes the contents of this report.

BACKGROUND

3. Freedom of Information provides a statutory right of access to information held by Scottish public authorities.

4. Statistical reports on the how the Council has dealt with information requests have been produced on an annual basis since the Freedom of Information (Scotland) Act came into force in 2005.

REPORT

5. To bring the report in line with other reporting mechanisms, the reporting period is being changed from the calendar year to the financial year. This report therefore covers requests received in the fifteen month period from January 1st 2018 to March 31st 2019.

6. This period was a busy one in terms of dealing with Freedom of Information requests, with 1840 requests received in the fifteen months in the period of this report (1463 for the calendar year 2018, 1507 for the financial year 2018-19).

7. The report details Council, departmental and sectional performance in responding to these requests, and summarises the use of exemptions, reviews and appeals.

PUBLICATION

8. This report and appendix will be published on the Council's website.

FINANCE AND EFFICIENCY

9. There are no particular financial implications arising from this report.

IMPLICATIONS OF REPORT

10. As this report is primarily a performance update, there are no particular implications in terms of staffing, property, legal, IT, equalities or sustainability.

RECOMMENDATION

11. It is recommended that the Cabinet notes the contents of this report.

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Freedom of Information

Report on information requests received
January 2018 – March 2019

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1 Introduction

This report considers the volume of information requests received in the period January 2018 to March 2019 and details performance across the Council in processing them. It also considers the use of exemptions, fees, reviews and appeals.

Freedom of Information came into force on 1st January 2005 and since then reporting has been on an annual basis based on the calendar year. This year, however, the report covers 1st Jan 2018 to 31st March 2019 so as to align future reports with other similar accounting and review processes.

The Freedom of Information (Scotland) Act 2002 and the associated Environmental Information Regulations 2004 provide a statutory right of access to information held by Scottish public authorities. FoI encourages openness and accountability and is intended to build trust between public bodies and the public that we serve.

The volume of requests received continues to increase. However, the performance of the Council during the 15 month period covered by this report remained consistent. 85% of requests received were dealt with on time and the average response time improved to 12.3 days. Less satisfactory, however, was the significant rise in the number of requests recorded as “failed to respond”.

2 Volume of requests

East Renfrewshire Council (including the HSCP and the Trust) dealt with a total of 1840 requests between Jan 2018 and March 2019, comprising 1410 under the Freedom of Information (Scotland) Act 2002 and 430 under the Environmental Information Regulations (Scotland) 2004.

For comparative purposes with previous years the total combined figure for FoI and EIR was 1463 for the calendar year 2018, and 1507 for the financial year 2018/19. There were 380 in the period January – March 2019.

As detailed in figure 1 the annual calendar year total represents an increase of 13% on the number received in the previous year.

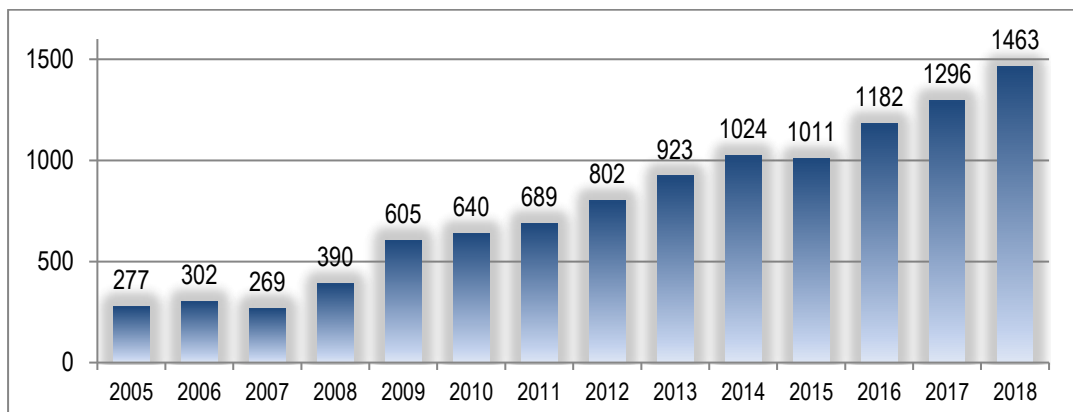


Figure 1(FOI from 1st January – 31st December)

3 Nature of requests

Requests have been received from a broad range of sources:

	Jan 2018 - April 2019
Individual	51%
Business	15%
Media	14%
MPs / MSPs / Elected Members	11%
Community / Campaign Groups	8%
Public Authorities	1%

Figure 2

Note:

- These figures are indicative only. In particular, it is likely that “individual” will contain a number of applicants who could instead have been recorded under another heading.

The geographical origin of requests (excluding 27% “unknown”) is noted at figure 3 below.

	Jan 2018 - April 2019
East Renfrewshire	17%
outwith East Renfrewshire, within Scotland	48%
outwith Scotland, within UK	35%
outwith UK	0.1%

Figure 3

4 Performance

85% of requests were answered within the statutory 20-day timescale during the 15 month period of this report, and the average response time was 12.3 working days. These figures, with comparisons from previous years, are given in figure 4 and those for individual departments in figure 5.

FoI performance: Council-wide	2015	2016	2017	Jan 2018 - April 2019
Percentage of requests answered within timescale	89%	85%	85%	85%
Average response time (in working days)	11.6	13.3	13.1	12.3
Failed to respond	0	9	3	27

Figure 4

Note:

- A request is marked as “failed to respond” where it is more than 20 working days late beyond the statutory deadline. On a few occasions, a response is subsequently issued by the Department but, in line with Council policy, this does not amend the designation of “failed to respond”.

FoI performance: by department Jan 2018-March 2019	no. of requests	% within time (20 working days)	average response time (working days)	failed to respond
Chief Executive’s Office	112	96%	10.5	0
Corporate & Community Services	440	93%	11.2	0
Education Department	327	76%	14.7	3
Environment Department	632	84%	12.5	7
HSCP	194	74%	13.5	17
Cross Departmental	85	100%	12.7	0
ERC Leisure Trust	39	92%	10.1	0

Figure 5

5 Exemptions

The majority of requests (73%) resulted in full disclosure of the information sought, with partial disclosures in a further 17% of requests. However, certain information is exempt from disclosure under the legislation. Exemptions applied, in order of frequency of use, are detailed in figure 6.

It should be noted that most “refusals” are “refused” only because the information sought is not held or because it is available elsewhere.

Exemptions/Exceptions cited		Jan 2018 - April 2019
S.25 Reg.6(1)b	Information otherwise accessible	212
S.17 Reg.10(4)a	Information not held	172
S.38 Reg.11	Personal information	81
S.33 Reg.10(5)e	Commercial interests and the economy	21
S.12	Excessive cost of compliance	13
S.27	Future publication	9
S.30	Prejudice to conduct of public affairs	4
S.14 (1)	Vexatious request	4
S.36 (2) Reg.10(5)d	Confidentiality	3
Reg. 10(4)d	Draft material in the course of completion	2
S.35 (a) Reg.10(5)b	Prevention or detection of crime etc.	1
S.26	Statutory prohibition on disclosure	1
S.14 (2)	Repeated request	1

Figure 6

Note:

- *There have been a number of occasions on which more than one exemption was applied. The total number of exemptions noted, therefore, does not correspond with the total number of requests to which an exemption was applied*

6 Fees

The Freedom of Information (Scotland) Act 2002 makes limited provision for refusing requests which incur an excessive cost, and for partially recharging those that would cost the authority more than £100 to process. The Environmental Information Regulations allows for the full recharge of the cost of dealing with requests. Further guidance on the use of fees was developed and approved by Cabinet in summer 2018.

During the period January 2018 to March 2019, the Council refused 12 requests on the grounds that answering them would exceed the statutory cost ceiling. In addition, 7 fee notices were issued. None of these were paid and these requests were therefore deemed to have been withdrawn.

7 Reviews & Appeals

Of the 1840 information requests dealt with between January 2018 and March 2019, the applicant formally asked the Council to review its decision on 43 occasions. These reviews were determined as detailed in figure 7.

Requests for reviews	
Number of requests for reviews	43
...of which the review upheld the Council's original decision:	23
...of which the review partially upheld the original decision:	11
...of which the review overturned the Council's original decision:	8
...withdrawn by the applicant or void	1

Figure 7

If an applicant is dissatisfied with the outcome of a review they have the right to appeal to the Scottish Information Commissioner. Between 1st January 2018 and 31st March 2019 a total of 7 FOI requests were referred to the Scottish Information Commissioner. As detailed in Figure 8 below, the Scottish Information Commissioner upheld the appeal in three cases and upheld the Council's decision in 1 case. Two cases are as yet undetermined and one case was withdrawn by the applicant.

Ref.	Request	Commissioner's Decision
3172	Leisure implementation plans	Appeal Upheld (OSIC ref. 201800583)
3259	Leisure implementation plans	Appeal Upheld (OSIC ref. 201801282)
3310	Information re a placing request	Appeal Upheld (OSIC ref. 201801436)
3473	Trust business review	Yet to be determined by the Commissioner (OSIC ref. 201802058)
3691	History of revenue underspend	Decision Upheld (OSIC ref. 201802150)
4138	IP addresses	Yet to be determined by the Commissioner (OSIC ref. 201900493)
4140	Turner and Townsend Feasibility Case	Appeal Withdrawn by applicant (OSIC ref. 201900510)

Figure 8

8 Conclusion

Freedom of Information remains an important element of the Council's commitment to transparency and accountability. Performance in dealing with requests has generally been maintained despite a continuing rise in the volume of requests. It is hoped that ongoing work can improve both the Council's performance and our customer experience.

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