

EAST RENFREWSHIRE COUNCIL

CABINET

7th September 2023

Report by Chief Executive

FREEDOM OF INFORMATION - COUNCIL PERFORMANCE 2022-23

PURPOSE OF REPORT

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

RECOMMENDATION

2. It is recommended that the 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 how the Council has dealt with information requests have been presented to Cabinet on an annual basis since the Freedom of Information (Scotland) Act 2002 came into force in 2005.

REPORT

5. The Council received 1364 requests during this period, 957 under Fol(S)A and 407 under the related Environmental Information Regulations (Scotland).

PUBLICATION

6. This report will be published on the Council's website.

FINANCE AND EFFICIENCY

7. There are no financial implications arising from this report.

IMPLICATIONS OF REPORT

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

RECOMMENDATION

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

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Freedom of Information

Report on information requests received 2022-2023

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1 Introduction

This report considers the volume of information requests received in the period 1st April 2022 to 31st March 2023 and details performance across East Renfrewshire Council in processing these requests. It also considers the use of exemptions, fees, reviews and appeals.

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

2 Volume of requests

East Renfrewshire Council received 1364 requests, compared to 1140 received in the previous year. As detailed in figure 1 below this figure represents an increase of 20% on the total from the previous year.

This total comprised 957 requests under the Freedom of Information (Scotland) Act 2002 and 407 requests under the Environmental Information Regulations (Scotland) 2004.

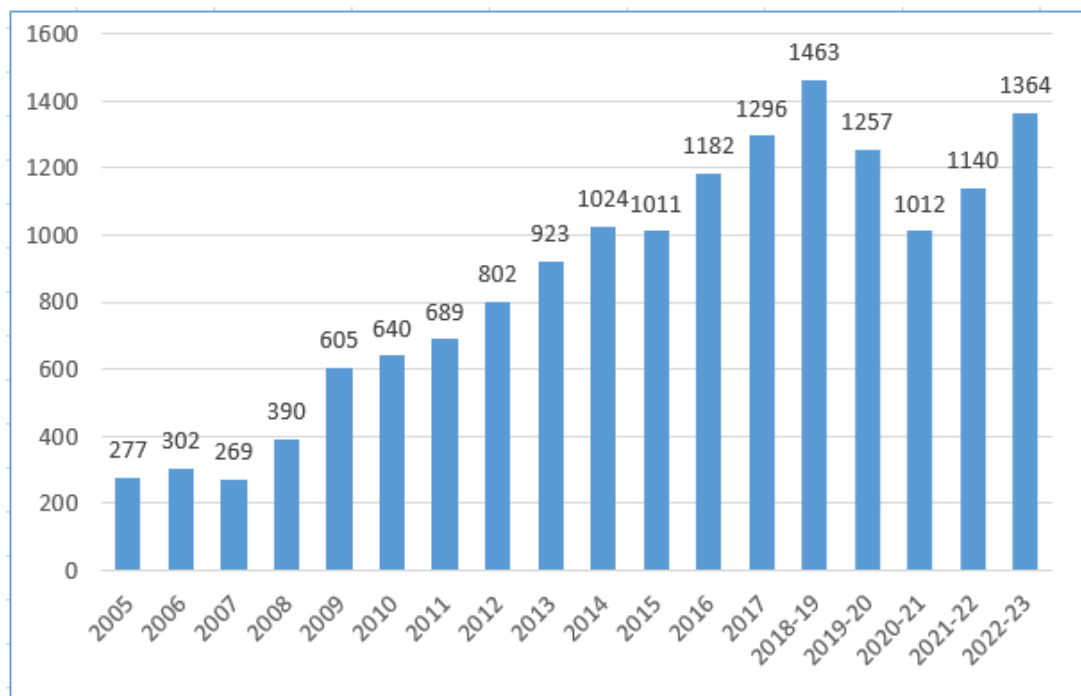


Figure 1

Note:

- The figures up to 2017 are for calendar years; those for 18-19 onwards are for financial years reflecting a change in the reporting period.

3 Performance

93% of requests received during the period of this report were answered within the statutory 20 working day timescale - the highest figure recorded since the advent of FoI - and the average response time was 12.4 working days. These figures, with comparisons from previous years, are given in Figure 2. Details of performance for individual departments for 2022/2023 are detailed in Figure 3.

FoI performance: Council-wide	2017	2018-19	2019-20	2020-21	2021-22	2022-23
Percentage of requests answered within timescale	85%	85%	82%	80%	85%	93%
Average response time (in working days)	13.1	12.3	13.7	15.1	13.7	12.4
Number of "Failed to respond"	3	27	46	18	28	2

Figure 2

FoI performance: by department	Number of requests	Percentage of requests answered within timescale(20 working days)	Average response time (working days)	Number of "failed to respond"
Business Operations & Partnerships	313	89%	13	1
Chief Executive's Office	69	94%	12	0
Education Department	244	93%	13	0
Environment Department	510	95%	11	1
HSCP	147	95%	15	0
Cross Departmental	81	98%	10	0

Figure 3

4 Commissioner's Intervention

In November 2021 the Council was notified of a "level one" intervention from the Scottish Information Commissioner, raising concerns about the Council's level of performance in terms of the response-on-time and failure-to-respond rates. This was due to a number of factors including structural and staffing changes, the impact of Coronavirus and staff working remotely being unable to access records.

This matter was immediately raised at the Corporate Management Team. In February 2022 the CMT approved an "Fol Improvement Plan" which covered clearer allocation of responsibilities, the development of new systems and reporting mechanisms, and improving training and awareness.

The Commissioner subsequently commented that the Plan has resulted in "significant progress in performance ...and clear evidence of a sustained level of improvement" and closed their intervention on 20th September 2022.

5 Exemptions

The majority of requests (86%) resulted in full disclosure of the information sought, with partial disclosures in a further 8% of requests. However, certain information is exempt from disclosure under the legislation. Fol exemptions and EIR exceptions applied, in order of frequency of use, are detailed in Figure 4.

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

Exemptions/Exceptions cited		Number. of times cited
S.17, Reg.10(4)a	Information not held	85
S.38, Reg.11	Personal information	32
S.25, Reg.6(1)b	Information otherwise available	27
S.12	Excessive cost of compliance	10
S.27, Reg. 10(4)d	Future publication or draft information	6
S.33, Reg.10(5)e	Commercial interests and the economy	6
S39	Health, Safety and the Environment	5

S 30	Conduct of public affairs	4
S34	Investigations	2
S36, Reg. 10(5)d	Confidentiality	2
S18	Neither confirm nor deny	2
S.35, Reg.10(5)b	Law Enforcement	2

Figure 4

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 £100.00 to process. The Environmental Information Regulations allows for the full recharge of the cost of dealing with requests.

During the period of this report, the Council refused 10 requests on the grounds that answering them would exceed the statutory cost ceiling and 3 fee notices were issued, 1 of which was paid.

7 Reviews and Appeals

Of the 1,364 information requests received, the applicant formally asked the Council to review its decision on 31 occasions. These reviews were determined as detailed in Figure 5. If the applicant remains dissatisfied after the internal review, they have the right to appeal to the Scottish Information Commissioner. Appeals determined in 2022-23 are detailed in Figure 6.

Requests for reviews 2022/23	
Number of requests for reviews	31
...of which the review upheld the department's original decision	14
...of which the review partially upheld the original decision	7
...of which the review overturned the department's original decision	10

Figure 5

Appeals Resolved 2022/23	
Number of appeals	2
Commissioner upheld Council's decision	1
Appeal partially upheld by Commissioner	1

Figure 6

8 Conclusion

Freedom of Information remains an important element of East Renfrewshire Council's commitment to transparency and accountability. Performance had dipped in 2020 and 2021, but work through the FoI Improvement Plan has improved both the customer experience and the Council's performance.

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July 2023

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