

PERTH AND KINROSS COUNCIL

Scrutiny Committee – 20 April 2011

FREEDOM OF INFORMATION PERFORMANCE REPORT 2010

Report by Head of Legal Services

ABSTRACT

This report provides information on the continuing good performance of the Council in respect of Freedom of Information for 2010, despite challenging circumstances

1. RECOMMENDATION

The Committee is asked to note the report and to highlight any matters of concern.

2. BACKGROUND

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.

It was agreed that the Council's performance should be reported annually to the Executive Officer Team and the Scrutiny Committee.

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

3. REQUESTS RECEIVED

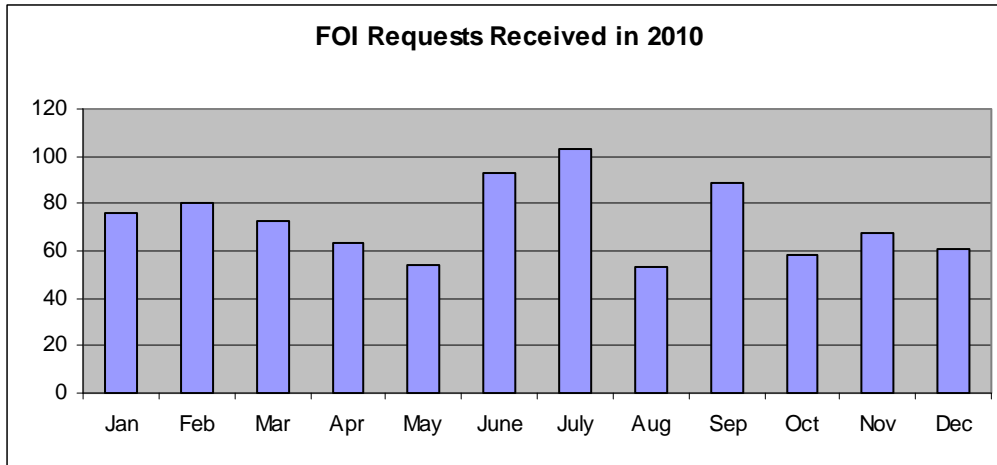
- 3.1 During 2010, the Council received 871 Freedom of Information (FOI) requests. This represents a 25% increase from 2009.

| Year | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|----------|------|------|------|------|------|------|
| Requests | 611 | 597 | 432 | 567 | 697 | 871 |

This increase follows the trend of the previous year and represents the highest number of requests received by the Council in any year since the legislation came into force.

- 3.2 The number of requests received on a monthly basis continues to show considerable fluctuation throughout the year and does not conform to any obvious trend.

Whilst holiday periods are traditionally quiet spells, they do not necessarily mean a reduction in the number of requests received, in fact almost the opposite - particularly June and July.



Comparison with figures from previous years simply confirms that there is no particular pattern and it is impossible to anticipate peaks and troughs on a monthly basis.

3.3 Analysing the requests based on the type of applicant shows that the general public remain the largest group of applicants.

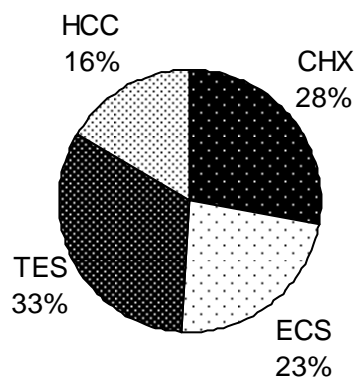
| | 2008 | | 2009 | | 2010 | |
|-------------------------|------|----|------|----|------|----|
| | No. | % | No. | % | No. | % |
| Individuals | 197 | 35 | 201 | 29 | 346 | 40 |
| Media | 149 | 26 | 183 | 26 | 189 | 22 |
| Legal | 71 | 13 | 66 | 9 | 30 | 3 |
| Business | 61 | 11 | 71 | 10 | 95 | 11 |
| Elected representatives | 40 | 7 | 88 | 13 | 126 | 14 |
| Interest groups | 33 | 6 | 70 | 10 | 78 | 9 |
| Other | 16 | 3 | 18 | 3 | 7 | 1 |

The percentage and number of requests received from the public has increased significantly.

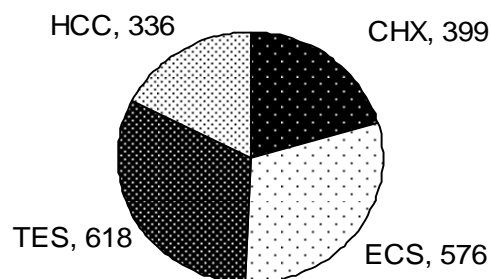
The media remain the second largest source of requests although the number of requests received has remained static.

The number of requests received from elected representatives (and their research staff) has also shown a notable increase in volume, whilst the number of legal requests has more than halved.

3.4 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 and Education and Children's Services.



3.5 The number of requests does not necessarily reflect the amount of time spent dealing with them. As has been the pattern in previous years, Education and Children's Services and The Environment Service both spend longer responding to their requests. This is a reasonable reflection of the complexity of many of the requests. This diagram shows the amount of time recorded as spent responding to requests (in hours).



3.6 On average the amount of time recorded as spent in responding to an FOI request within each Service is

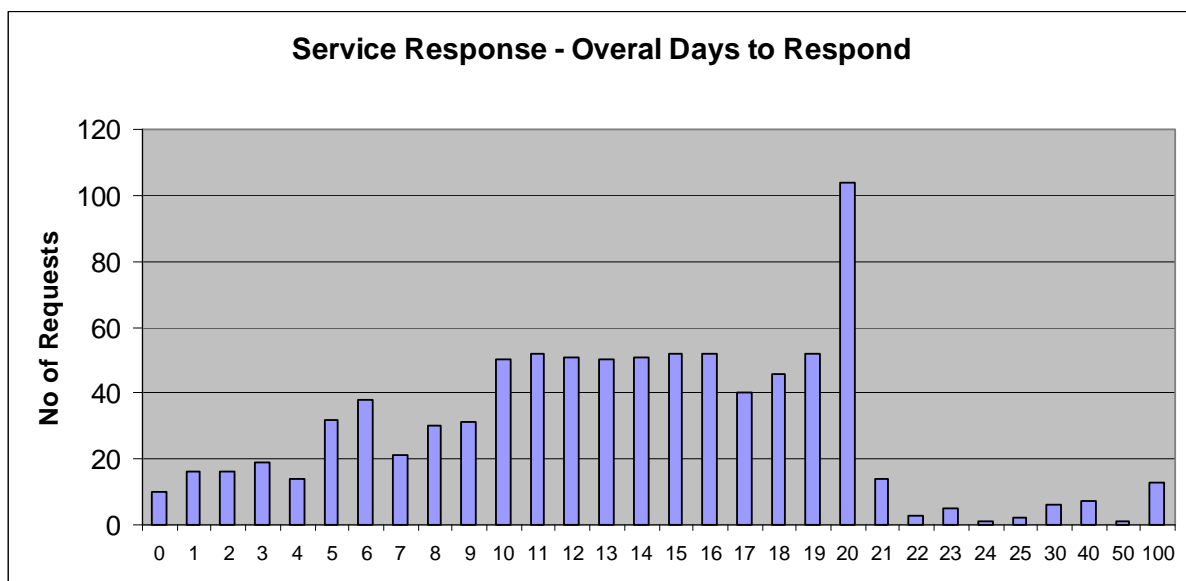
| | Average Time (hours) |
|---------------------------------|----------------------|
| Chief Exec | 1.2 |
| Education & Children's Services | 2.1 |
| Environment Service | 1.6 |
| Housing & Community Care | 1.7 |

The overall average is 1.6 hours spent on each request by Services.

This excludes time spent by the central FOI team, which amounted to approximately 4.2 hours on average for each request during 2010. This is down from 5.4 hours in 2009, and gives an indication of the need for the Team to process requests in a shorter time to keep up with the increase in the number received.

4. PERFORMANCE

- 4.1 Of the requests received, 49.5% were satisfied in full and a further 35% were satisfied in part. The remaining 15.5% received no information at all. In other words, 84.5% of the requests received at least some of the information asked for.
- 4.2 The predominant reasons for not supplying information were because the Council didn't have it (61%); because it was available elsewhere (9%); or because it included personal information (22%).
- 4.3 During the year, 27 requests were refused completely or in part because of excessive cost. The costs of satisfying these requests were estimated ranging from £700 to £16,000, with an average cost of approximately £4,200.
- 4.4 In one case a fees notice was raised after 57 hours of work had already been undertaken by various employees to collate a response within limit. The amount of time spent on this request only became apparent once information had been collated from each Service and accumulated.
- 4.5 Of the requests received, 95% were completed within the statutory 20 working-day timescale. This meets the target of 95%, and shows an improvement on 94% achieved in 2009, and 93% in 2008.
- 4.6 Of the 42 requests that were late, more than half were dealt with during particularly busy periods, holiday periods or other periods of reduced staff numbers. Fourteen of the late requests were completed on day 21 and 3 on day 22. A further fourteen were completed by day 30. There were 22 occasions when it took longer than 30 days to complete the response.
- 4.7 This situation can be clarified somewhat by considering the number of days that Services take to supply the information to the FOI Team compared to the nominal target of 10 days.



Overall, 40% of the responses from Services to the FOI Team 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.

Service responses to the FOI team took longer than 20 days on 22 occasions. This explains the reason for a late response to the applicant in the majority of the cases. However, there were 20 occasions where the delay was simply due to the volume of work at that time within the FOI Team, or the requirement to get approval before replying to requests from the Media.

- 4.8 The average time for the response to a request was 13.1 days (compared to 14.1 in 2009 and 12.5 days in 2008).

5. COSTS

- 5.1 The total cost to the Council of responding to FOI requests in 2010 is estimated at £105,000. This gives an average cost of £120 for each request (compared to £202 in 2009). This reflects both the reduction in the number of employees in the FOI team and a reduction in the average time taken by Services to respond to requests.

- 5.2 The Council has not, to date, charged for FOI requests. It remains the position that the Council will not normally charge for providing information in response to a request unless it is information for which a charge is ordinarily set. In December 2010 the Strategic Policy and Resources Committee approved an amendment to the FOI policy allowing the Council to charge for information in response to a request in keeping with the relevant fee regulations. The decision to charge for a request will be made at the discretion of the Head of Legal Services and the reason will be documented and the applicant informed of the reason.

It is estimated that, under the statutory charging scheme, the Council would have been able to charge on approximately 72 occasions (out of 871) and the total amount chargeable would have been approximately £668.

The actual cost of responding to these particular requests is estimated at £8640.

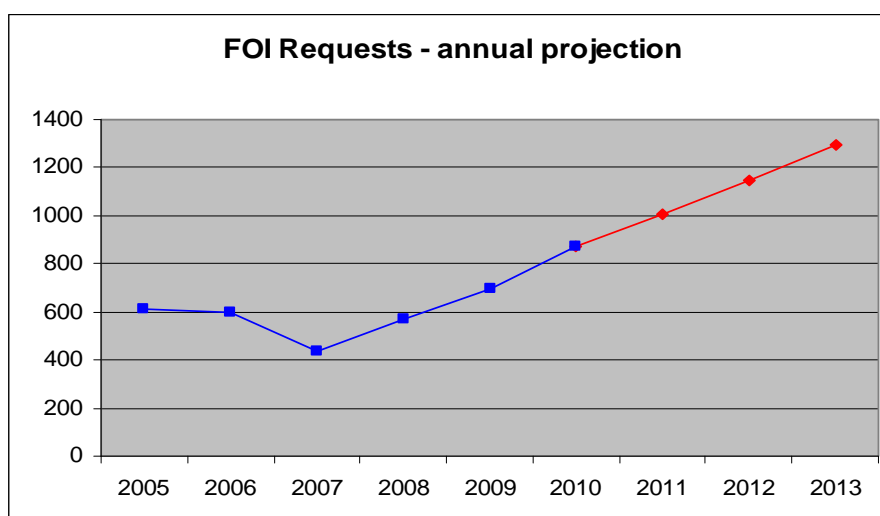
- 5.3 It is worth noting that the cost of raising 72 invoices and recovering the charges would be approximately £1,728.
- 5.4 The number of employees in the FOI Team was reduced from three to two on a permanent basis following the retirement of the Senior FOI Officer in January 2010, resulting in savings of £39,500 per annum.

6. REVIEWS AND APPEALS

- 6.1 The Council received 35 requests to review its decision (complaints), which represents 4% of the requests. This compares to nine reviews (1.2%) in 2009, and is almost the total number of requests for the three previous years combined (39 reviews for 2007, 2008 and 2009).
- 6.2 14 of the requests to review were from a single applicant (40%).
- 6.3 All except four of the reviews were completed within the 20 working-day deadline. The four exceptions were due to the complexity of the request, the difficulties encountered in trying to obtain additional information, and the transition to a new FOI Investigating Officer.
- 6.4 Of the 35 reviews completed, 16 upheld the original decision in full and 12 upheld the original decision in part. Five overturned the original decision. One review was not processed as it was outwith the review request timeframe, and one review was subsequently withdrawn by the applicant.
- 6.5 Three requests were appealed (dissatisfied with the result of the review) to the Scottish Information Commissioner during 2010. One appeal partially upheld the Council's decision, but was critical of the searches undertaken which failed to identify all relevant information. Two appeals are still the subject of investigation by the Commissioner.

7. ISSUES ARISING

- 7.1 The FOI Team are to be commended for their performance in 2010 in improving the Council's response rate whilst again dealing with significantly more requests.
- 7.2 It is anticipated that the number of requests will continue to rise in future years. The graph below shows a projection for the next three years based on the number of requests received each year since 2005.



This will pose a significant challenge for the FOI Team and Services in general.

- 7.3 Whilst the overall response rate has improved from 2009, there remains room for some improvement. The most obvious areas for consideration are the number of responses from Services which take more than 20 working days and the number of requests for review received.
- 7.4 Perhaps inevitably, given the significant increase in requests in 2010, the number of requests for review has increased by 388% since 2009. This will continue to be monitored throughout 2011.
- 7.5 The reduction of Officers in the FOI Team proved satisfactory overall, although there were periods when the lack of available resources did cause problems which were reflected in the quality of response issued. There have been a number of changes in working practices implemented over the last year to try to alleviate these issues and to improve the quality of Service provided by the Team. It is hoped that these changes will ensure that satisfactory standards continue to be met.
- 7.6 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.
- 7.7 The Council's ability to provide documentary evidence either of a decision being made or to support a decision that has been made continues to be patchy and can be a concern at times.

8. EXTERNAL INVOLVEMENT

- 8.1 The Council is represented regularly on two national groups related to FOI – the FOI / Data Protection group of the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) and the Scottish Local Authorities' FOI Officer's Network.
- 8.2 Representatives of the Council regularly attend seminars organised by the Centre for FOI in Dundee.
- 8.3 Representatives of the Council attend the annual FOI Conference organised in conjunction with the Scottish Information Commissioner.
- 8.4 During 2010, the Council responded to two relevant consultation papers. One was a Scottish Government consultation on the extension of FOISA to cover a range of bodies including Public Private Partnership / Private Finance Initiative contracts and local authorities' leisure companies. The other was the Office of the Scottish Information Commissioner's paper on revising the approach to publication schemes, to simplify schemes and actively encourage activities to publish information.

8.5 The Scottish Government announced in December 2010 that it would conduct a review of FOISA with a view to introducing a FOISA Amendment Bill in the next session parliament. Following the announcement, the Council's Information Compliance Manager was approached by the Government to provide suggestions for possible amendments to FOISA.

8.6 The Scottish Government announced in January 2011 that it would not be appropriate to consider extending coverage of FOISA to other organisations until a review of the legislation has taken place.

9. FUTURE WORK

9.1 The performance target for responding to FOI requests will remain at 95% for 2011. Experience shows that this is a challenging target, but it is felt to reflect the reasonable expectation that almost every request should be completed within the statutory timescale.

9.2 Further work will be undertaken to improve the understanding of the work of the FOI Team across the Council and to improve the way the FOI team interacts with the rest of the Council. This will, in part, be achieved by the FOI Team conducting individual training sessions during Delayed Office Opening days.

9.3 An e-learning module for all employees has been drafted and is in the process of being finalised. It is expected this will be made available during 2011.

9.4 Work will commence with Services to encourage the proactive publication of information to reduce the volume of requests. This follows a review of the information most commonly requested, as well initiatives in both Scotland and the rest of the UK to promote the publication of certain classes of information.

9.5 Efforts will be made to continue to improve the efficiency of the request handling process to ensure that the reduction in numbers in the FOI Team does not have an adverse impact on performance.

9.6 It is anticipated that changes proposed as part of the Modern Ways of Working programme will significantly enhance the Council's ability to proactively publish information and to respond to FOI requests in the medium term. This will be achieved through improvements in the storage and retrieval of information.

10. CONSULTATION

There was no consultation in the preparation of this report.

11. RESOURCE IMPLICATIONS

There are no resource implications arising from this report.

12. COUNCIL CORPORATE PLAN OBJECTIVES 2009-2012

This report supports all the objectives in the Council's Corporate Plan 2009-2012.

13. EQUALITIES ASSESSMENT

This report was considered under the Corporate Equalities Assessment Framework and the determination was made that the items summarised in this report do not require further assessment as they do not have an impact on people's wellbeing.

14. STRATEGIC ENVIRONMENTAL ASSESSMENT

This report was considered under the Environmental Assessment (Scotland) Act 2005 and the determination was made that the items summarised in this report do not require further action as they do not qualify as a plan, programme or strategy as defined by the Act.

15. CONCLUSION

The Council's performance on FOI continues to be very good and has improved from 2009. 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.

IAN INNES

Head of Legal Services

Note: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

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Date: 9 February 2011

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