

EAST RENFREWSHIRE COUNCILCABINET1 September 2022Report by Chief ExecutiveFREEDOM OF INFORMATION - COUNCIL PERFORMANCE 2021-22**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 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 produced on an annual basis since the Freedom of Information (Scotland) Act 2002 came into force in 2005.

REPORT

5. The Council received 1140 requests received during this period, 807 under Fol(S)A and 333 under the related Environmental Information Regulations (Scotland).

6. In November 2021 the Council was notified of a "level one" intervention from the Scottish Information Commissioner in relation to deteriorating levels of performance in terms of meeting statutory timescales. The Corporate Management Team has addressed this issue with a "Freedom of Information Improvement Plan" which has resulted in a significant improvement in response times.

PUBLICATION

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

FINANCE AND EFFICIENCY

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

IMPLICATIONS OF REPORT

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

RECOMMENDATION

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

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Freedom of Information

Report on information requests received 2021-2022

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1 Introduction

This report considers the volume of information requests received in the period 1st April 2021 to 31st March 2022 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 1,140 requests, compared to 1,012 received in the previous year. As detailed in figure 1 below this figure represents an increase of 13% on the total from the previous year.

This total comprised 807 requests under the Freedom of Information (Scotland) Act 2002 and 333 under the Environmental Information Regulations (Scotland) 2004.

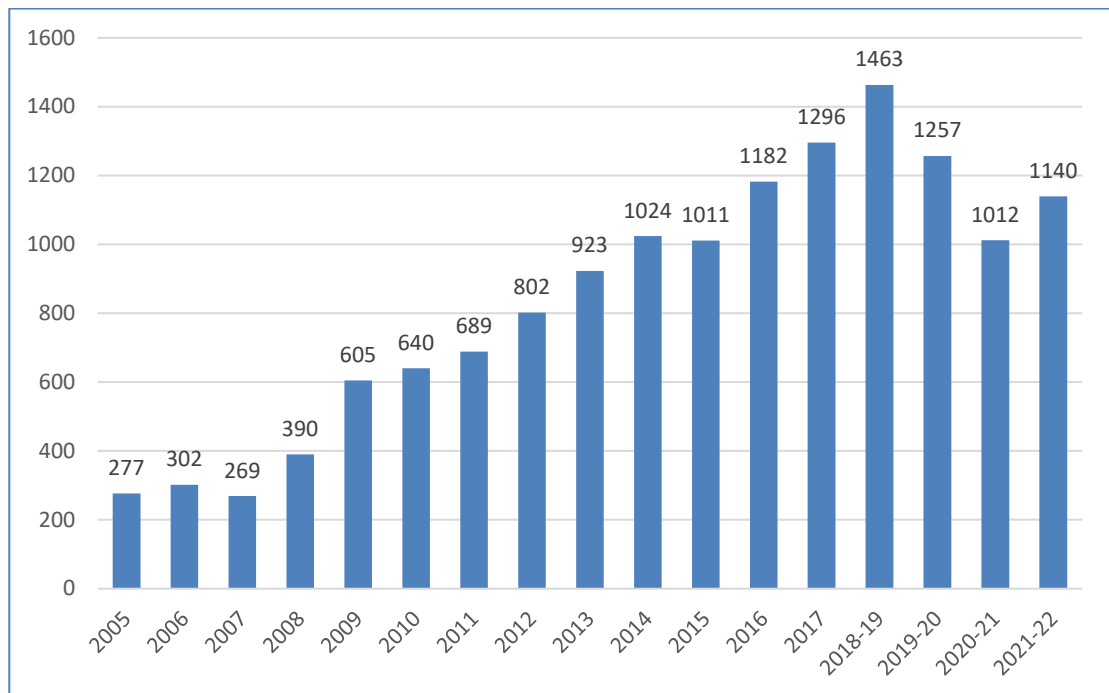


Figure 1

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

85% of requests received during the period of this report were answered within the statutory 20 working day timescale, and the average response time was 13.7 working days. These figures, with comparisons from previous years, are given in Figure 2. Details of performance for individual departments for 2021/2022 are detailed in Figure 3.

FoI performance: Council-wide	2016	2017	2018-19	2019-20	2020-21	2021-22
Percentage of requests answered within timescale	85%	85%	85%	82%	80%	85%
Average response time (in working days)	13.3	13.1	12.3	13.7	15.1	13.7
Number of "Failed to respond"	9	3	27	46	18	50

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"
Chief Executive's Office	73	86%	11 days	5
Corporate & Community Services/Business Operations & Partnerships	213	83%	14 days	10
Education Department	144	83%	15 days	1
Environment Department	519	87%	13 days	8
HSCP	137	74%	18 days	4
Cross Departmental	54	100%	9 days	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 early concerns about the Council's level of performance in terms of the response-on-time rate. This was due to a number of factors including structural and staffing changes, the impact of Coronavirus and staff being unable to access records, and the matter was immediately raised at the Corporate Management Team.

The CMT took this matter seriously and approved an "Fol Improvement Plan" which covered clearer allocation of responsibilities, developing new systems and reporting mechanisms, and improving training and awareness.

As noted in figure 4 below this process has had a positive impact on performance which it is hoped can lead to a sustained high level of compliance and a better service to the public.

period	1 st ¼ 21-22	2 nd ¼ 21-22	3 rd ¼ 21-22	4 th ¼ 21-22
Response-on-time rate	82%	76%	85%	93%

Figure 4

5 Exemptions

The majority of requests (82%) resulted in full disclosure of the information sought, with partial disclosures in a further 11% 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 5.

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.25, Reg.6(1)b	Information otherwise available	91
S.17, Reg.10(4)a	Information not held	72
S.38, Reg.11	Personal information	25
S.12	Excessive cost of compliance	3

S.35, Reg.10(5)b	Law Enforcement	2
S.33, Reg.10(5)e	Commercial interests and the economy	1
Reg. 10(5)f	Third party Interests	1
Reg 10(4)e	Internal Communications	1
S14 (1), Reg. 10(4)b	Vexatious/manifestly unreasonable	1
S.26	Statutory Prohibition	1
S 30	Conduct of public affairs	1
S.27	Future publication	1

Figure 5

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 3 requests on the grounds that answering them would exceed the statutory cost ceiling and 5 fee notices were issued, none of which were paid.

7 Reviews and Appeals

Of the 1,140 information requests received, the applicant formally asked the Council to review its decision on 27 occasions. These reviews were determined as detailed in Figure 6. If the applicant remains dissatisfied after the internal review, they have the right to appeal to the Scottish Information Commissioner. These reviews are detailed in Figure 7.

Requests for reviews 2021/22	
Number of requests for reviews	27
...of which the review upheld the department's original decision	11
...of which the review partially upheld the original decision	5
...of which the review overturned the department's original decision	9
...withdrawn by the applicant or void	2

Figure 6

Appeals to Scottish Information Commissioner 2021/22	
Number of appeals	3
...withdrawn by the applicant or void	2
...unresolved at the time of report	1
In addition, two appeals from requests from last year were determined as follows:	
Appeal upheld Council's decision	1
Appeal partially upheld by Commissioner	1

Figure 7

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 it is hoped that ongoing work through the FoI Improvement Plan can improve both the customer experience and the Council's performance.

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July 2022

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