

**REPORT TO:** Cabinet

**MEETING DATE:** 11 June 2013

**BY:** Executive Director (Support Services)

**SUBJECT:** Freedom of Information (Scotland) Act 2002  
Data Protection Act 1998 – Compliance Statistics

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## **1 PURPOSE**

- 1.1 To report on the Council's compliance with the 20 working day timescale laid down by the Freedom of Information (Scotland) Act 2002 for the period from 1 October 2012 to 31 March 2013.
- 1.2 To report on the Council's compliance with the 40 calendar day timescale laid down by the Data Protection Act 1998 for the period from 1 January 2012 to 31 March 2013.

## **2 RECOMMENDATIONS**

- 2.1 To note that following on from the results of the inspection carried out by the Scottish Information Commissioner in December 2013, it was recognised that there was a need for a formal reporting procedure for compliance with statutory timescales for reasons of openness and transparency and to note the content of this report accordingly.

## **3 BACKGROUND**

- 3.1 **Freedom of Information (Scotland) Act 2002** - During the period 1 October 2012 to 31 March 2013, East Lothian Council operated in accordance with the statutory requirements, particularly:

**Requests for information** – to be answered within 20 working days

**Requests for review** – to be answered within 20 working days by a Chief Officer

If requesters remained dissatisfied after completing this process, then they had a legal right to appeal to the Scottish Information Commissioner (SIC).

- 3.2 Freedom of Information (FOI) statistics are recorded by Law & Licensing. Guidance on how to handle requests and requests for review are on the Council's intranet, accessible to all employees.
- 3.3 The total number of FOI requests received between 1 October 2012 and 31 March 2013 was **477**, a slight decrease from the previous half year. However, overall numbers of FOI requests have been increasing steadily since the Freedom of Information (Scotland) Act 2002 came into force.
- 3.4 The total number of requests for review received between 1 October 2012 and 31 March 2013 was **10**, a decrease from the previous half year (20).
- 3.5 In January 2013, a new recording system was introduced to distinguish between FOI requests and requests falling within the Environmental Information (Scotland) Regulations 2004 (EIR). Therefore, the performance statistics are broken down into 2012 and 2013 tables.

The table below provides a breakdown of the response timescales for Freedom of Information (Scotland) Act 2002 requests between 1 October 2012 and 31 December 2012:

On time: Within 20 Working Days	175	87.06%
Late	26	12.94%
Lapsed/Written Off	0	
Date of Completion Unknown	0	
Cancelled/Withdrawn	0	
Suspended	1	
<b>TOTAL ACTIONED</b>	<b>202</b>	

The table below provides a breakdown of the response timescales for both Freedom of Information (Scotland) Act 2002 and Environmental Information (Scotland) Regulations 2004 requests between 1 January 2013 and 31 March 2013:

	<b>FOI</b>		<b>EIR</b>	
On time	149	87%	25	76%
Late	22	13%	8	24%
Lapsed/Written Off	0		0	
Date of Completion Unknown	0		0	
Cancelled/Withdrawn	2		0	
Suspended	8		1	
<b>TOTAL ACTIONED</b>	<b>181</b>		<b>34</b>	

- 3.6 The table below provides a breakdown of the response timescales for Freedom of Information (Scotland) Act 2002 requests for review between 1 October 2012 and 31 December 2012:

On time: Within 20 Working Days	4	50%
Late	4	50%
Upheld	6	
Overtured	1	
Additional Info Provided	1	
<b>TOTAL ACTIONED</b>	<b>8</b>	

The table below provides a breakdown of the response timescales for Freedom of Information (Scotland) Act 2002 requests for review between 1 January 2013 and 31 March 2013:

	FOI		EIR	
Upheld	1	100%	0	N/A
Partially Upheld	0		0	
Overtured	0		0	
Additional Info Provided	0		0	
Total Received	2		0	
Total Actioned	1		0	
Still Outstanding	1		0	
<b>Grand Total of Internal Reviews</b>	<b>2</b>			

- 3.7 The top three enquirers were:

- 1) General Public
- 2) Commercial Organisations
- 3) Journalists

- 3.8 **Data Protection Act 1998** – East Lothian Council operates in accordance with the statutory requirements, particularly:

**Requests for personal information** (“Subject Access Requests”) – to be answered within 40 calendar days

- 3.9 Data Protection (DP) statistics are recorded by Law & Licensing. Guidance on how to handle requests for personal information (“Subject Access Requests”) are on the Council’s intranet, accessible to all employees.

3.10 As statistics have not previously been provided in respect of the Data Protection Act 1998, the tables below provide an overview of all “Subject Access Requests” processed since 1 January 2012:

2012: 111 enquiries received in total for the year:

Completed on time (within 40 calendar days)	78	77%
Late	22	22%
Timescale unknown	1	1%
Suspended	9	
Withdrawn	1	
<b>Total Actioned</b>	<b>111</b>	

2013: 28 enquiries received 01/01/2013 to 31/03/2013:

Completed on time (within 40 calendar days)	12	80%
Late	3	20%
Timescale unknown	0	
Suspended	4	
Withdrawn	0	
<b>Ongoing</b>	<b>9</b>	
<b>Total Actioned</b>	<b>19</b>	

#### 4 POLICY IMPLICATIONS

4.1 None.

#### 5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

#### 6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other – None

## 7 BACKGROUND PAPERS

7.1 None

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