

REPORT TO: Cabinet

MEETING DATE: 11 November 2014

BY: Depute Chief Executive (Resources and People Services)

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

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 April 2014 to 30 September 2014.
- 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 April 2014 to 30 September 2014.

2 RECOMMENDATIONS

- 2.1 Cabinet is asked to note the report and for Members to provide feedback on the compliance statistics.

3 BACKGROUND

- 3.1 **Freedom of Information (Scotland) Act 2002** - During the period 1 April 2014 to 30 September 2014, 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 Licensing, Administration and Democratic Services. Guidance on how to handle information requests, and requests for review, are on the Council's intranet, accessible to all employees.

3.3 The total number of FOI requests received from 1 April 2014 to 30 September 2014 was **637**, a slight decrease from the previous half year (654). Overall numbers of FOI requests have, however, been increasing steadily since the Freedom of Information (Scotland) Act 2002 came into force.

This figure includes information requests processed under the Environmental Information (Scotland) Regulations 2004 (EIR). A split of the FOI and EIR requests is provided at 3.5 of this report.

3.4 The total number of requests for review received from 1 April 2014 to 30 September 2014 was **8**, an increase from the previous half year (4).

This figure includes reviews processed under the Environmental Information (Scotland) Regulations 2004 (EIR). A split of the FOI and EIR reviews is provided at 3.6 of this report.

3.5 Since January 2013, the recording system used has distinguished between FOI requests and requests falling within the Environmental Information (Scotland) Regulations 2004 (EIR). The table below provides a breakdown of the response timescales for both FOI and EIR requests between 1 April 2014 to 30 September 2014:

	FOI		EIR	
On time	477	97.5%	86	99%
Late	12	2.5%	1	1%
Lapsed/Written Off	0		0	
Date of Completion Unknown	0		0	
Cancelled/Withdrawn	5		2	
Suspended	17		1	
Ongoing	30		6	
TOTAL ACTIONED	511		90	

3.6 The table below provides a breakdown of the response timescales for FOI and EIR requests for review between 1 April 2014 to 30 September 2014:

	FOI		EIR	
On time: Within 20 Working Days	5	83%	1	50%
Late	1	17%	1	50%
Original Decision Upheld	4		1	
Original Decision Partially Upheld	0		0	
Original Decision Overturned	1		1	
Additional Info Provided	1		0	
Total Received	6		2	
Total Actioned	6		2	
Still Outstanding	0		0	
Grand Total of Internal Reviews	8			

3.7 The top three enquirers were:

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

At the Cabinet meeting of 13 May 2014 it was asked if it is possible to provide a split of FOI enquiries received from local journalists and journalists from further afield. No FOI enquiries have been identified as coming from local journalists. It should be noted, however, that most media FOI enquiries are circulated to all local authorities from, for example, news agencies, the BBC, B Sky B, national newspapers etc. There may also be some enquiries from freelance journalists which we will not be aware of as they have not identified themselves as such.

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 Licensing, Administration and Democratic Services. Guidance on how to handle requests for personal information (“Subject Access Requests”) are on the Council’s intranet, accessible to all employees.

- 3.10 The total number of DP “Subject Access Requests” received from 1 April 2014 to 30 September 2014 was **31**, a slight decrease from the previous half year (42).

Completed on time (within 40 calendar days)	19	100%
Late	0	-
Suspended	10	
Withdrawn	2	
Ongoing	0	
Total Actioned	31	

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 - The Charging Policy for Data Protection, Freedom of Information and Environmental Information was approved by Cabinet on 11 June 2013. In accordance with this policy, fees totalling £20.00 have been received from 1 April 2014 to 30 September 2014:

£20 (£10 x 2)	Data Protection
£0	Freedom of Information
£0	Environmental Information

FOI requests are managed by Licensing, Administration and Democratic Services (1 x FTE DP/FOI Officer and 1 x FTE DP/FOI Compliance Officer) with input from service areas as required.

In order to estimate the time spent by service areas when gathering information for FOI requests, a sampling exercise has been carried out. Service area staff are asked to record the length of time spent dealing with these requests. Based on information provided, it is calculated that each information request takes service areas, on average, approximately 126 minutes to process.

To demonstrate the approximate costs of service area staff time, the hourly rates of pay have been identified for the highest paid member of service area staff who dealt with these requests as well as that of the lowest paid member of service area staff:

Highest paid:

£32.97 per hour x 2.10* = £69.24 per request

Lowest paid:

£11.68 per hour x 2.10* = £24.53 per request

Average:

£69.24 + £24.53 / 2 = £46.88 per request

*2.10 = 126 minutes

6.2 Personnel - None

6.3 Other – None

7 BACKGROUND PAPERS

7.1 None

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