

REPORT TO: Cabinet

MEETING DATE: 8 November 2016

BY: Depute Chief Executive - Resources and People Services

SUBJECT: Freedom of Information (Scotland) Act 2002
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 2016 to 30 September 2016.
- 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 2016 to 30 September 2016.

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 2016 to 30 September 2016, 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 2016 to 30 September 2016 was **603**, a decrease from the previous half year (659). Despite the decrease during this period, overall numbers of FOI requests have 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 2016 to 30 September 2016 was **14**, equivalent to the previous half year.

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 2016 to 30 September 2016:

	FOI		EIR	
On time	416	83%	50	81%
Late	87	17%	12	19%
Lapsed/Written Off	0		0	
Date of Completion Unknown	0		0	
Cancelled/Withdrawn	7		0	
Suspended	25		1	
Ongoing	5		0	
TOTAL ACTIONED	540		63	

It is acknowledged that response timescales have deteriorated in comparison to the previous half year. Reasons include an increase in voluminous/complex information requests.

3.6 The table below provides a breakdown of the response timescales for FOI and EIR requests for review between 1 April 2016 to 30 September 2016:

	FOI		EIR	
On time: Within 20 Working Days	10	91%	2	67%
Late	1	9%	1	33%
Upheld	5		1	
Partially Upheld	0		0	
Overturned	0		1	
Additional Info Provided	6		1	
Total Received	12		3	
Total Actioned	11		3	
Still Outstanding	1		0	
Grand Total of Internal Reviews	15			

3.7 The top three enquirers were:

- 1) General Public (40%)
- 2) Commercial Organisations (20%)
- 3) Journalists (18%)

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 2016 to 30 September 2016 was 34, a decrease from the previous half year (40).

Completed on time (within 40 calendar days)	17	85%
Late	3	15%
Suspended	12	
Withdrawn	0	
Ongoing		
Total Actioned		
	3*	
	34	

*At the time of writing this report, one ongoing “Subject Access Request” has missed the 40 calendar day deadline so has been included in the “Late” figures.

4 POLICY IMPLICATIONS

4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

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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