

REPORT TO: Cabinet

MEETING DATE: 12 September 2017

BY: Depute Chief Executive - Resources and People Services

SUBJECT: Freedom of Information (Scotland) Act 2002 and Data Protection Act 1998 – Compliance Statistics
Regulation of Investigatory Powers (Scotland) Act 2000 – 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 October 2016 to 30 June 2017.
- 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 October 2016 to 30 June 2017.
- 1.3 To report on the Council's use of the Regulation of Investigatory Powers (Scotland) Act 2000 for the period 1 April 2016 to 30 June 2017.

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 October 2016 to 30 June 2017, 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 or an officer nominated by them.

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, is published on the Council's intranet, accessible to all employees.

3.3 The total number of FOI requests received from 1 October 2016 to 30 June 2017 was 1,039. By way of comparison, 659 requests were received during the previous half year reported (1 April 2016 to 30 September 2016). 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 October 2016 to 30 June 2017 was 19. By way of comparison, 14 review requests were received during the previous half year reported (1 April 2016 to 30 September 2016).

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 October 2016 to 30 June 2017:

	FOI		EIR	
On time	791	91%	77	76%
Late	76	9%	24	24%
Lapsed/Written Off	0		0	
Date of Completion Unknown	0		0	
Cancelled/Withdrawn	11		1	
Suspended	34		2	
Invalid	21		2	
Ongoing	0		0	
TOTAL ACTIONED	933		106	

3.6 The table below provides a breakdown of the response timescales for FOI and EIR requests for review between 1 October 2016 to 30 June 2017:

	FOI		EIR	
On time: Within 20 Working Days	13	87%	0	0%
Late	2	13%	2	100%
Upheld	9		1	
Partially Upheld	3		0	
Overturned	2		0	
Additional Info Provided	0		1	
Invalid	2			
Total Received	17		2	
Total Actioned	16		2	
Still Outstanding	1*		0	
Grand Total of Internal Reviews	19			

*At the time of writing this report, one FOI review received between 1 October 2016 and 30 June 2017 remains outstanding but has missed the 20 working day deadline. It has therefore been included in the “Late” figures.

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

- 3.10 The total number of DP “Subject Access Requests” received from 1 October 2016 to 30 June 2017 was 51. By way of comparison, 22 requests were received during the previous half year reported (1 April 2016 to 30 September 2016).

Completed on time (within 40 calendar days)	24	86%
Late	4	14%
Suspended	23	
Withdrawn	0	
Ongoing	2*	
Total Actioned	49	

*At the time of writing this report, two “Subject Access Requests” received between 1 October 2016 and 30 June 2017 remain outstanding but have missed the 40 calendar day deadline. They have therefore been included in the “Late” figures.

- 3.11 **Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA)** - During the period 1 April 2016 to 30 June 2017, East Lothian Council operated in accordance with the statutory requirements and particularly that all covert surveillance is carried out within the remits of the law.
- 3.12 RIPSA statistics are recorded by Licensing, Administration and Democratic Services. Guidance on how to handle surveillance requests is published on the Council’s intranet, accessible to all employees.
- 3.13 The total number of surveillance requests authorised under RIPSA legislation by East Lothian Council during the period 1 April 2016 to 30 June 2017 was 4.

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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