

REPORT TO: Cabinet

MEETING DATE: 12 June 2018

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 calendar year 2017 (i.e.: from 1 January 2017 to 31 December 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 calendar year 2017 (i.e.: from 1 January 2017 to 31 December 2017).
- 1.3 To report on the Council's use of the Regulation of Investigatory Powers (Scotland) Act 2000 for the calendar year 2017 (i.e.: from 1 January 2017 to 31 December 2017).

2 RECOMMENDATIONS

- 2.1 Cabinet is asked to note the report and that, whilst staff were dealing with more Freedom of Information requests, fewer cases progressed to internal review in 2017 than in 2016.

3 BACKGROUND

- 3.1 **Freedom of Information (Scotland) Act 2002** - During 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 in 2017 was 1,427. By way of comparison, 1,303 requests were received during the previous calendar year, 2016. An increase of 124. 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 in 2017 was 19. By way of comparison, 30 review requests were received during the previous calendar year, 2016. A decrease of 11.

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 in 2017:

	FOI				EIR			
	2017		2016 (for comparison)		2017		2016 (for comparison)	
On time	1,038	88%	981	90%	100	78%	122	87%
Late	148	12%	113	10%	28	22%	18	13%
Cancelled/Withdrawn	17		15		2		0	
Suspended	45		49		1		5	
Invalid	45		*		3		*	
Ongoing	0		0		0		0	
TOTAL ACTIONED	1,293		1,158		134		145	

*Invalid requests were not recorded separately in 2016.

3.6 The table below provides a breakdown of the response timescales for FOI and EIR requests for review in 2017:

	FOI				EIR			
	2017		2016 (for comparison)		2017		2016 (for comparison)	
On time: Within 20 Working Days	14	82%	20	80%	0	0%	2	40%
Late	3	18%	5	20%	1	100%	3	60%
Upheld	10		13		0		2	
Partially Upheld	2		2		0		0	
Overtured	4		1		1		1	
Additional Info Provided	1		8		0		2	
Invalid	1		1		0		0	
Still Outstanding	0		0		0		0	
Total Actioned	18		25		1		5	

3.7 The top three enquirers in 2017 were:

- 1) General Public (42%)
- 2) Commercial Organisations (19%)
- 3) Journalists (15%)

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 in 2017 was 85. By way of comparison, 55 requests were received during the previous calendar year, 2016.

	2017		2016 (for comparison)	
Completed on time (within 40 calendar days)	42	79%	27	82%
Late	11	21%	6	18%
Suspended	32		22	
Withdrawn	0		0	
Ongoing	0			
Total Actioned	85		55	

- 3.11 Managers have been reminded about the importance of this area of work and abiding by timescales.
- 3.12 **Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA)** - During the calendar year 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.
- 3.13 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.
- 3.14 The total number of surveillance requests authorised under RIPSA legislation by East Lothian Council during 2017 was 3. By way of comparison, 1 request was authorised during the previous calendar year, 2016.

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

AUTHOR'S NAME	Kirstie MacNeill
DESIGNATION	Service Manager – Licensing, Administration & Democratic Services
CONTACT INFO	Ext: 7164 Email: kmacneill@eastlothian.gov.uk
DATE	24 May 2018