

# ***Information Digest***



**To: Resources Overview & Scrutiny Panel**

**Date: 11 December 2020**

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**Freedom of Information & Environmental Information  
Regulations Update**

**Portfolio Holder for Customer Services  
Councillor Tony Hall**

**Executive Director (People)  
Mark Trillo**

**Wards Involved - Non-specific**

**1. Reason for the Report**

- 1.1 To provide an update report to members in relation to FOI (Freedom of Information) and EIR (Environmental Information Regulations) requests received by the Council.

**2. Recommendation**

- 2.1 That members note the contents of the report.

**3. Executive Summary**

- 3.1 The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) give rights of public access to information held by public authorities.
- 3.2 The Council is committed to the principles of openness and accountability whilst at the same time protecting the privacy of personal and sensitive information.
- 3.3 There are exemptions to disclosure of information, some of which are absolute, but most require us to take into consideration the public interest in releasing or withholding the information.
- 3.4 The Council is also required to have in place a procedure for dealing with complaints about the way in which information requests have been handled.
- 3.5 The number of requests for information received by the Council has grown considerably over the years, and are often complex in nature. The current FOI database system (Infreemation) has been used since September 2016. Further information is outlined in Section 6 of the report.
- 3.6 The FOI database system is used for recording the time taken to deal with the requests. For the year 2019/20 the costs amounted to £25,225.

**4. How this report links to Corporate Priorities**

- 4.1 To use resources effectively and provide value for money.

**5. Alternative Options**

- 5.1 Not applicable.

Mark Trillo  
**Executive Director (People) and Monitoring Officer**

## Web Links and Background Papers

## Contact details

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### 6. Detail

6.1 The Freedom of Information Act (FOIA) and the Environmental Information Regulations 2004 (EIR) came into force in January 2005.

6.2 The access legislation is primarily about a culture change from a “need to know” to a “right to know”. It represents a balance between greater openness and transparency of decision making and, also, the need to protect information where disclosure would cause harm or otherwise be contrary to the public interest.

6.3 The FOI Act gives anyone the right to ask a public authority for information and, if that authority holds it, to have that information released to them or to be told why they cannot have it. The Environmental Information Regulations 2004 give enhanced access to environmental information, by giving members of the public and others the right to access environmental information held by public authorities.

The authority:

- Must reply within 20 working days either providing the information or explaining why this cannot be released, using the stated exemptions within the Act.
- Should provide advice and assistance to the applicant in making the request.
- Should provide details regarding the complaints process available under FOI/EIR.

6.4 Heads of Service are responsible for checking responses are correct and for returning them to the FOI Officer within 10 working days. It is their responsibility to ensure that all responses meet the 20 day statutory timescale and none are issued late or overdue.

### 6.5 Publication Scheme

The Act places a duty on public authorities to adopt and maintain Publication Schemes. Where information can be made available, the service areas are responsible for publishing and reviewing the information relating to their own service area on the Council’s website.

## 6.6 Exemptions

There are exemptions to disclosure of information, some of which are absolute, but most require us to take into consideration the public interest in releasing or withholding the information. The exemptions are listed at Appendix A.

## 6.7 Complaints/Review procedures

The Code of Practice contained in Section 45 of the Act and the Code of Practice issued in respect of the EIR recommend that each public authority should have in place a procedure for dealing with complaints about the way in which information requests have been handled and, under section 17 of the Act, where information has been refused, must inform the applicant of their rights of appeal. Complaints to the Information Commissioner will only be considered when internal appeals procedures have been exhausted.

## 6.8 Information Commissioner

The Information Commissioner's Office (ICO) is the UK's independent authority set up to promote access to official information and to protect personal information.

## 6.9 Penalties for non-compliance

Failure to comply with the Act can result in enforcement action being taken by the Information Commissioner. The final stage of this would be an enforcement notice.

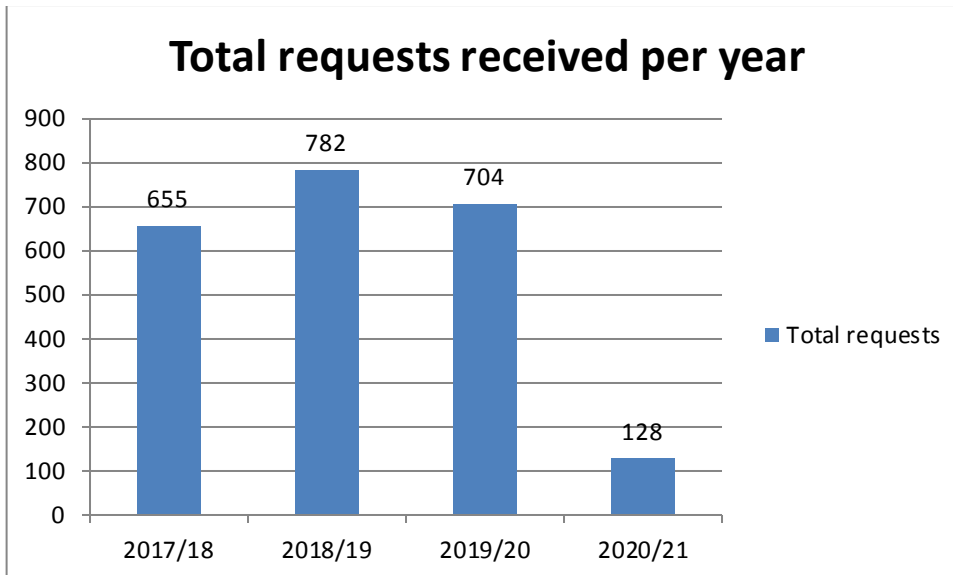
If anyone alters, defaces, blocks, erases, destroys or conceals any information once a request for it has been received, they may be committing a criminal offence. This offence applies to the public authority and all staff who are employed by it.

If the Council's procedures are found to be weak by the Information Commissioner, the ICO can serve the Council with a "Practice Recommendation" which would instruct it to adopt new systems in order to fully comply with the Act.

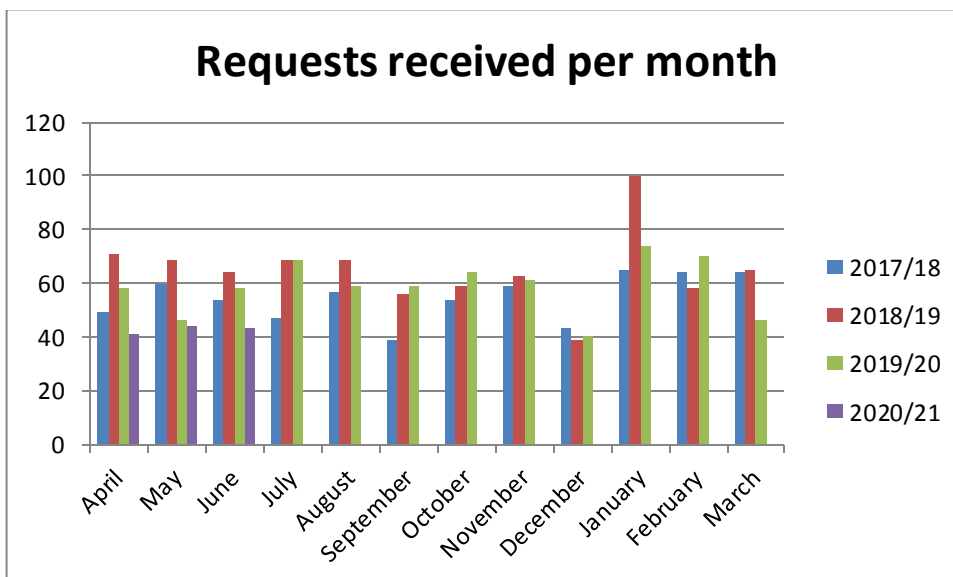
## 6.10 Number of requests received per Year

The number of requests for information received by the Council has grown considerably over the years. The current FOI database system (Infreemation) has been used since September 2016.

The graph below shows the number of requests received per year from 2017/18 onwards to 30 June 2020.



6.11 The total number of requests received each month can fluctuate month on month. The current trend shows a decrease of information requests since the start of the COVID-19 situation.



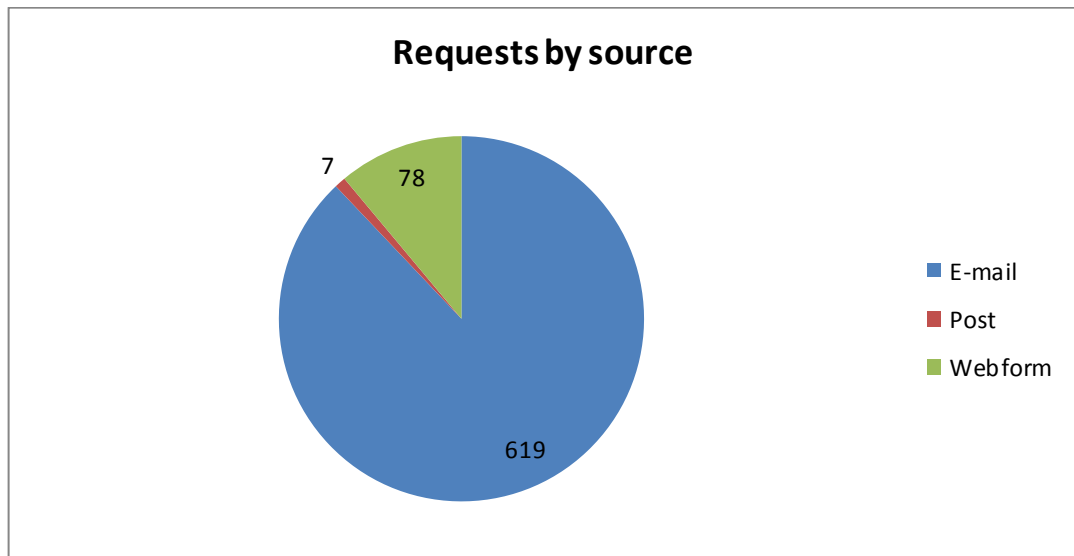
#### 6.12 Costs of replying to requests

The system is used for recording the time taken to deal with the requests. For the year 2019/20 the costs amounted to £25,225. There were 704 requests received during this year, therefore, the average cost per request was £36.

#### 6.13 Requests by source

The majority of information requests are received via e-mail. Members of the public may complete an online form via the Council's website which links directly into the FOI system. The website FOI pages will be updated to encourage the requesters to use the online FOI webform when making requests for information, rather than requesting information via e-mail.

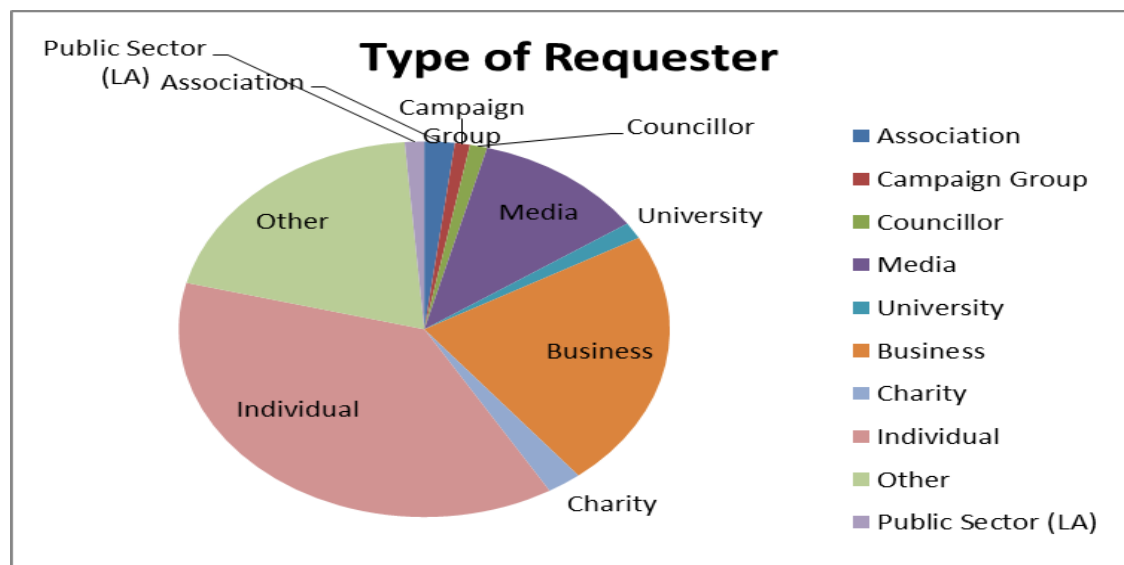
Data shown below is for 2019/20:



#### 6.14 Type of requesters

In the last financial year 2019/20 requests for information have been received from the following:

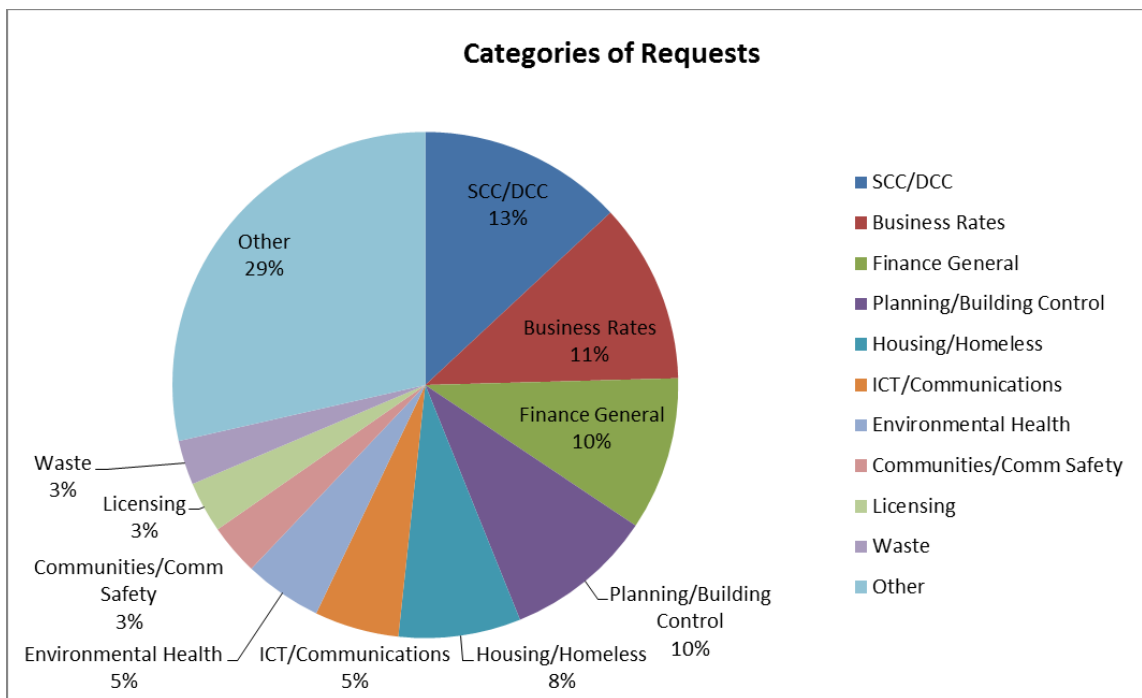
- Individuals – 37.51%
- Businesses – 22.30%
- Other – 19.74%
- Media – 11.36%
- Charities – 2.27%
- Association – 1.99%
- Universities – 1.42%
- Public Sector – 1.28%
- Councillors – 1.14%
- Campaign groups – 0.99%



The trend has changed over the years as it is not always easy to identify whether the requester is sending the request on behalf of their business or employer, as many requests are received from individual e-mail accounts. If the customer type field has not been completed this is shown as 'other'.

### 6.15 Categories

The data in the graph below shows the main categories of information requested during the year 2019/20. Depending on current topics, either nationally or locally, the Council may receive numerous information requests relating to the same subject.



### 6.16 Requests by type

During the year 2019/20 the Council received 704 requests for information. The figures below show the breakdown between the different types of requests.

- FOI requests – 79.40%
- EIR requests – 18.04%
- FO/EIR requests – 1.70%
- Service requests – 0.86%

### 6.17 Percentage of Requests answered on time for the financial year 2019/20

The data provided below shows the percentage of responses issued by the Council within the 20 day statutory time period for the year 2019/20.

	On time	Late
2019/20	82%	18%

A previous study conducted by MySociety Research shows local government compliance rates with the statutory 20 days deadline for reply are high, with isolated exceptions.

- **8 (2%)** Councils reported 100% of replies fell inside the statutory deadline.
- **260 (80%)** reported upwards of 80% of replies fell inside the statutory deadline.
- **7 (2%)** reported compliance rates below 50%.

#### 6.18 Requests per Service Areas

The number of information requests received per each service area will be recorded going forward from April 2020.

#### 6.19 Information requests - Triage system

The FOI officer is working with Heads of Service to help to reduce the impact on services areas when new information requests are received. Upon receipt of the information requests the FOI officers check the FOI database system for previous similar requests to enable a draft response to be prepared for the service area. The Head of Service will then be assigned the case file relating to the new request which will include the suggested draft response for their approval.

Where information is publicly available on the Council's website the response will be issued by the FOI officer providing a link to the relevant information on website.

#### 6.20 Future development - Disclosure Log

A Disclosure Log is a list of previous information requests. It provides the details of the information requested, together with the response provided by the service area. Personal information is not included in the Disclosure Log.

The Disclosure Log is currently being collated and will be available via the Council's website. The FOI web pages will be updated to encourage requesters to search the Disclosure Log for previous similar information requests, where a copy of the response issued will be available. This will help to reduce the number of information requests received by the Council.

Previous research conducted by MySociety shows that most Councils do not yet publish a Disclosure Log.

#### National Data – Use of Disclosure Logs

<b>Disclosure Log</b>	<b>Count</b>	<b>%</b>
Not in Use	246	64%
In Use	108	28%
Planned	21	5%
Forthcoming	6	2%
Discontinued	3	1%



