



## Executive Advisory Body

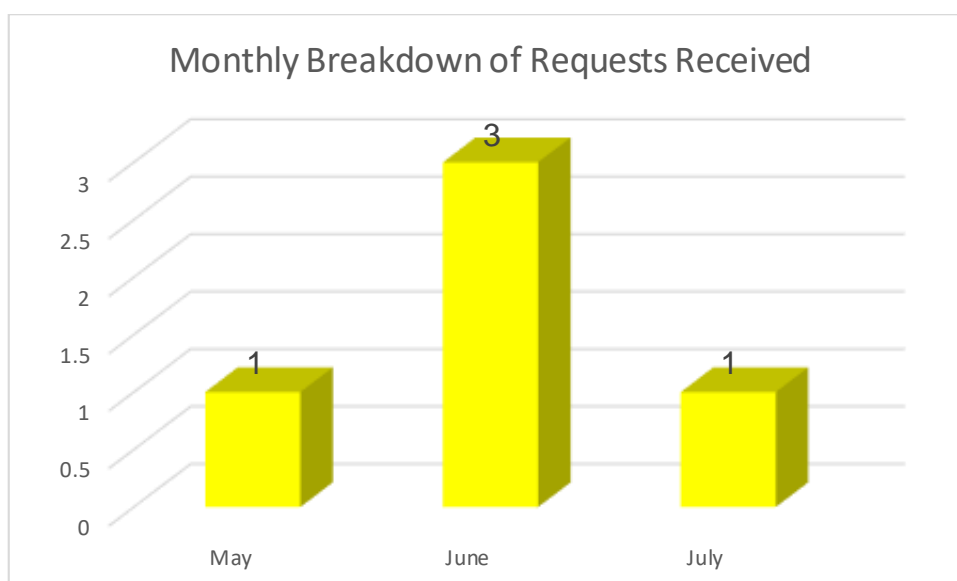
<b>Date of Meeting</b>	Tuesday 18 August 2020
<b>Subject</b>	Overview of FOI performance
<b>Agenda No.</b>	Below the Line
<b>Paper No.</b>	Below the Line 17.7
<b>Prepared By</b>	[Redacted]
<b>Purpose</b>	Monitor

### 1. Purpose

The purpose of this paper to provide the Executive Advisory Body with an overview of the Agency's progress in relation to Freedom of Information requests and the overall performance. The importance of monitoring our Freedom of Information performance falls in line with the values of dignity, fairness and respect in ensuring that we are as transparent as possible in allowing people to exercise their right to information.

### 2. Key points

2.1. Since the last report Social Security Scotland has received five new requests for information. Since the last report five responses have been issued. One response remains in progress. Three of the new requests were received in June and one was received in May and July.

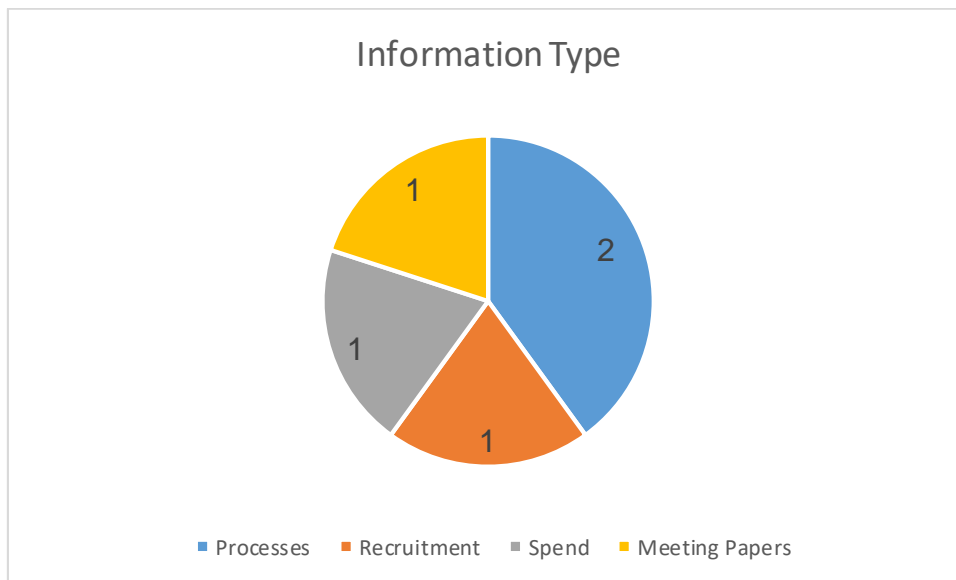


2.2. The Scottish Information Commissioner monitors Social Security Scotland's compliance with the timescales on a monthly basis. This is based on requests due in the month. As agreed with the Scottish Information Commissioner, core

Scottish Government and its agencies have a target of responding to 95% of requests within the timescales afforded by the Act. Social Security Scotland has exceeded this target with an on-time response rate of 100% since the last report.

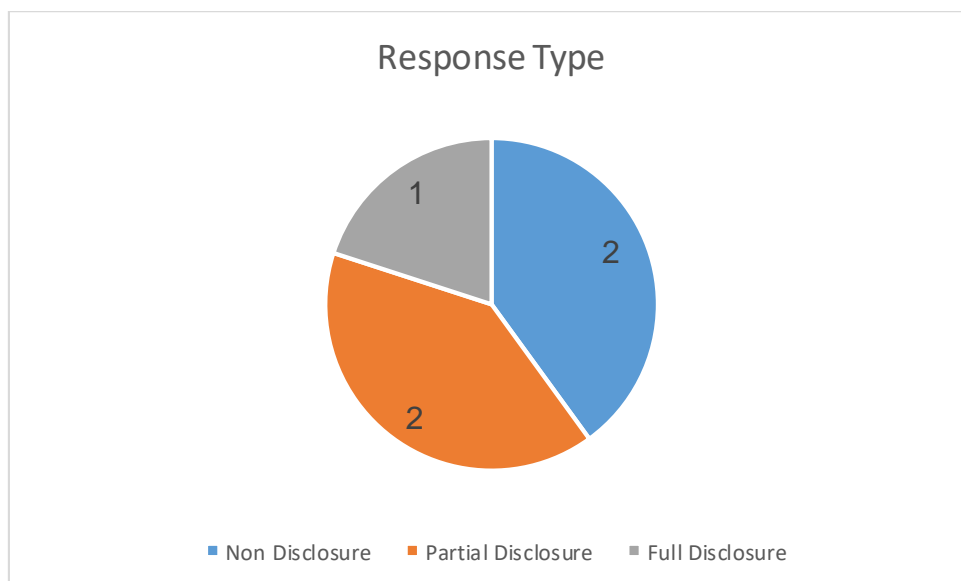
A monthly performance breakdown is provided in Annex A.

- 2.3. We record the type of information requested in order to identify patterns and inform decisions around proactive publication.



All requests received in the period specified were submitted by political researchers.

- 2.4 Five responses were issued since the last report. The responses are recorded as 'full disclosure', 'partial disclosure' or 'non-disclosure'.



Information was disclosed in full to one request, in part to two requests and not held in two responses. The notices applied were section 17(1) and the exemptions applied were section 38(1)(b) and section 30(b)(ii).

Details of notices and exemptions can be found in Annex B



- 2.5 A request for review to one of the responses issued was received on 3 June 2020. The review outcome partially upheld the original response and the exemptions applied however more information was released to the applicant.
- 2.6 In light of the information requested by applicants a decision has been taken to proactively publish within 12 weeks, the agenda, accompanying papers and minutes of the Executive Advisory Board and the Audit and Assurance Committee. These can be found here:  
[www.socialsecurity.gov.scot/what-we-do/minutes-meetings-and-agendas](http://www.socialsecurity.gov.scot/what-we-do/minutes-meetings-and-agendas)
- 2.7 No applications have been made to the Scottish Information Commissioner since the last report.

### 3. Conclusions

The Executive Advisory Body are invited to note the contents of this paper.



#### 4. GOVERNANCE CHECKLIST

Strategic Objective	Contribution
<p><b>Dignity, fairness and respect</b></p> <p>Delivering a service with dignity, fairness and respect at its core.</p>	
<p><b>Equality and tackling poverty</b></p> <p>Promoting equality and tackling poverty.</p>	
<p><b>Efficiency and alignment</b></p> <p>Ensuring efficiency and aligning our activities with wider public sector for the benefit of the people we serve.</p>	<p>This paper contributes to the strategic objective, “<b>we will continuously improve our services</b>”.</p>
<p><b>Economy, society and environment</b></p> <p>Contributing to our economy, society and protection of our environment.</p>	

Strategic consideration	Impact
Environment	
Governance	<p>This paper is for discussion and sets out how we have complied with our obligations under the Freedom of Information (Scotland Act) 2002 in the period.</p>
Data	
Finance	
Staff	
Equalities	
Estates	
Communications and Presentation	

**Information Commissioner Monthly Performance Reports (May 2020 – July 2020)**

**Annex A**

Month	No. Requests On Time	No. Requests Late, Responded	No. Request Late, In Progress	% Reqs On Time	No. Reviews On Time	No. Reviews Late, Responded	No. Reviews Late, In Progress	% Revs On Time
May	1	0	0	100%	n/a	n/a	n/a	n/a
June	2	0	0	100%	1	n/a	n/a	1
July	3	0	0	100%	n/a	n/a	n/a	n/a



## FOI Exemptions

### Annex B

Notices commonly applied by Social Security Scotland are:

- Section 12(exceeds the upper cost limit): allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit which is currently £600.
- Section 14(1)(request is vexatious): Sometimes a request may be so patently unreasonable or objectionable that it will obviously be vexatious, it can only be applied to the request itself and not the individual who submitted it.
- Section(17)(information not held): the public authority does not have access to the information requested or the information does not exist.

Exemptions commonly applied by Social Security Scotland are:

- Section 25(1)(information otherwise accessible): The purpose of the section 21 exemption is to ensure that there is no right of access to information via FOIA if it is available to the applicant by another route.
- Section 27(1)(information intended for future publication): the information intended for publication within 12 weeks of the request being submitted.
- Section 29(1)(a)(formulation of Scottish Government policy): the information is exempt when it relates to formulation or development of government policy and ministerial communications.
- Section 30(b)(i)(free and frank provision of advice): exempts information from disclosure where disclosure would, or would be likely to, cause substantial harm.
- Section 30(b)(ii)(free and frank exchange of views): exempts information from disclosure where disclosure would, or would be likely to, cause substantial harm.
- Section 33(1)(b)(commercial interests): functions in relation to the audit of the accounts of other public authorities, or the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions.
- Section 38(1)(b)(personal data relating to third party): relates to any personal information.

### Qualified exemptions

Most of these exemptions are subject to the public interest test. These are known as “qualified exemptions.”

Where a qualified exemption applies, the information must be disclosed unless the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption. Where the competing public interests are evenly balanced, the information should be disclosed.



## **Absolute exemptions**

Exemptions which are not subject to the public interest test are known as “absolute exemptions.”

Where an absolute exemption applies, a public authority is entitled to withhold the information without going on to consider the public interest. They include:

Information Otherwise Accessible - Section 25

Prohibitions on Disclosure - Section 26