

Executive Advisory Body

Date of Meeting	Tuesday 8 June 2021
Subject	Overview of FOI performance
Agenda No.	Below the Line
Paper No.	23.6
Prepared By	[Redacted]
Purpose	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 1 March 2021 Social Security Scotland has received five new requests for information. Since the last report five responses have been issued. There are no current requests. Four of these requests were received in March and one was received in April.
- 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 it's 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. Of the five requests, 4 related to spend and one related to an HR enquiry.
- 2.4. The five responses issued had applicable exemptions and notices. These are listed below

Section 17(1) information not held. This was applied twice

Section 25(1) information otherwise accessible

Section 38(1)(b) Personal data

We were unable to disclose most of the information requested with the exception of one request which was a partial disclosure. However, we were able to advise and assist applicants and point them in the right direction to retrieve the information they requested.

Details of notices and exemptions can be found in Annex B

2.5 We have recently reviewed our guide to information in line with the Scottish information Commissioners Exemplar Plan to make our publications and information as accessible as possible. This is reviewed quarterly.

2.6 We have not been notified of any applications 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
Dignity, fairness and respect Delivering a service with dignity, fairness and respect at its core.	Not Applicable
Equality and tackling poverty Promoting equality and tackling poverty.	Not Applicable
Efficiency and alignment Ensuring efficiency and aligning our activities with wider public sector for the benefit of the people we serve.	This paper contributes to the strategic objective, “ we will continuously improve our services ”.
Economy, society and environment Contributing to our economy, society and protection of our environment.	Not Applicable

Strategic consideration	Impact
Environment	
Governance	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.
Data	Not Applicable
Finance	Not Applicable
Staff	Not Applicable
Equalities	Not Applicable
Estates	Not Applicable
Communications and Presentation	Not Applicable

Information Commissioner Monthly Performance Reports (March 2021 – May 2021)

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
March	1	0	0	100%	n/a	n/a	n/a	n/a
April	3	0	0	100%	n/a	n/a	n/a	n/a
May	1	0	0	100%	1	0	0	100%

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