

Executive Advisory Body

Date of Meeting	Tuesday 21 January 2025
Subject	Overview of compliance with the Freedom of Information (Scotland) Act 2002
Agenda No.	Below the line
Prepared By	Freedom of Information team
Purpose	Monitor

1. Background

- 1.1. The purpose of this paper is to provide the Executive Advisory Body with an overview of the requests for information that we have received in the period from August 2024 to November 2024. It also sets out our compliance with the statutory timescales for responding. Compliance with the timescales contributes to our values of dignity, fairness and respect by demonstrating transparency and assisting individuals to exercise their right to information.

2. Key points

- 2.1. Since 1 August 2024 Social Security Scotland has received 77 new requests for information and one request for review. Twenty-four of the requests were received in August, eighteen in September, sixteen in October and nineteen in November. Since the last report 63 responses have been issued. There are thirteen current requests.
- 2.2. Between August 2024 and November 2024 we have received 77 requests for information with one request for review. For comparison, during the same period in 2023 we received 41 requests for information and two requests for review.
- 2.3. One request for review was received.

The Applicant disagreed that it would be cost exempt for us to provide the number of families with between 5 and 10 children claiming for the Scottish Child Payment since 1 January 2024 to the present date (25 September 2024). They believed the “information should already be documented and would just require some simple data analysis of the data on record.” The original response of being cost exempt was upheld without modification, however some additional information was provided to explain why it would be cost exempt.

- 2.4. The Scottish Information Commissioner monitors public authorities compliance with the Act. The information provided to the Commissioner includes compliance with the statutory timescales for response which is 20 working days. 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 98% since the last report.

A monthly performance breakdown is provided in Annex A.

- 2.5. We record the type of information requested and the requester in order to identify patterns and inform decisions on proactive publication of information.

Forty-five requests related to Client Data, 17 to Finance, five each to Staff (including numbers) and Internal Processes, three to Internal Communications, and one each to Recruitment and Costs (including Accommodation).

Of the 77 requests received in the period specified, 44 were from political sources, 17 from Members of the Public, eight from clients, six from journalists, and one each from the third sector and commercial sources.

Pie chart showing breakdown of new requests by type of information requested. Forty-five requests related to Client Data, 17 to Finance, five each to Staff (including numbers) and Internal Processes, three to Internal Communications, and one each to Recruitment and Costs (including Accommodation).

Pie chart showing source of requests. Forty-four from political sources, 17 from Members of the Public, eight from clients, six from journalists, and one each from the third sector and commercial sources.

- 2.6. Of the 63 responses issued, information was disclosed in full in seven requests and in part in 26 requests. No information was disclosed in 30 requests. Notices were applied from Sections 12 of the Act. Exemptions applied to withhold information were Section 17, Section 25(1), Section 30(c), Section 33(1)(b) and Section 38(1)(b). Details of notices and exemptions can be found in Annex B.

- 2.7. 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:

<https://www.socialsecurity.gov.scot/publications>

- 2.8. Since the last report one request has been received from the Office of the Scottish Information Commissioner.

An appeal was raised by a Requester in relation to an FOI response and subsequent Review Response which we issued earlier this year. They asked how many foreign born nationals are granted benefits from Social Security Scotland, to which we have replied stating that we do not hold this information. We have provided our response to the Commissioners questions and await their response.

3. Conclusions

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

4. GOVERNANCE CHECKLIST

Please ensure that you detail which Corporate Plan Strategic Objective the paper contributes to. These strategic considerations should be used to assist you with the content of your paper.

Strategic Objective	Contribution
Helping to deliver a social security system with dignity, fairness and respect.	Compliance with the timescales contributes to our values of dignity, fairness and respect by demonstrating transparency and assisting individuals to exercise their right to information.
Supporting people in Scotland to access devolved benefits that they are entitled to.	Not Applicable
Running our service in a responsible way.	This paper contributes to our continuously improving our services.

State here how the paper considers these areas and any consultation undertaken in the agency. Only complete the section(s) relevant to your paper.

Strategic consideration	Impact
Environment	Not Applicable
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

Strategic consideration	Impact
Finance	Good information rights management and properly formed and considered responses reduces the need for review and mitigates against appeals.
Staff	Not Applicable
Equalities	Not Applicable
Estates	Not Applicable
Communications and Presentation	Not Applicable

An Impact Assessment must be carried out during the development of all new Agency policies and services and when making significant changes to policies and services. The Corporate Assurance team should be involved from an early stage to provide guidance and advice relating to completing impact assessments.

[Impact Assessment Saltire Page](#)

General Impact Assessment Queries: Corporateassuranceteam@socialsecurity.gov.scot

Equality Impact Assessment Queries: Corporateassuranceteam@socialsecurity.gov.scot

Please complete the below table.

Type of Impact Assessment	Required (Y/N)	If No - briefly state reason e.g. Not relevant/Not eligible – agreed with Deputy Director	If yes – briefly state progress to date, highlight any significant issues.
Child Rights and Wellbeing Impact Assessment (CRWIA)	N	Not relevant	
Data Protection Impact Assessment	N	Not relevant	
Equality Impact Assessment (EQIA)	N	Not relevant	
Fairer Scotland Duty assessment	N	Not relevant	

Type of Impact Assessment	Required (Y/N)	If No - briefly state reason e.g. Not relevant/Not eligible – agreed with Deputy Director	If yes – briefly state progress to date, highlight any significant issues.
Future proofing legislation	N	Not relevant	
Human rights in policy making	N	Not relevant	
Islands Communities Impact Assessment (ICIA)	N	Not relevant	
Strategic Environment Assessment (SEA)	N	Not relevant	

Information Commissioner Monthly Performance Reports (August 2024 – November 2024)

Annex A

Month	Year	No. Requests responded to on Time	No. Requests responded to late	No. Requests in progress and late.	% Reqs On Time	No. Reviews responded to on Time	No. Reviews responded to late	No. Reviews in progress and late.	% Revs On Time
August	2024	9	0	0	100%	n/a	n/a	n/a	n/a
September	2024	18	0	0	100%	n/a	n/a	n/a	n/a
October	2024	23	1	0	96%	n/a	n/a	n/a	n/a
November	2024	13	0	0	100%	1	n/a	n/a	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 £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.
- Section 18(1) refusal to confirm or deny whether information is held.

Exemptions commonly applied by Social Security Scotland are:

- Section 25(1)(information otherwise accessible): This allows information to be withheld if it is already accessible to the applicant.
- Section 27(1)(information intended for future publication): This allows information to be withheld if the information intended for publication within 12 weeks of the request being submitted.
- Section 29(1)(a)(formulation of Scottish Government policy): This allows information to be withheld if the information relates to the formulation or development of government policy and ministerial communications.
- Section 30(b)(i)(free and frank provision of advice): This allows information to be withheld if disclosure of the information would, or would be likely to, cause substantial harm.
- Section 30(b)(ii)(free and frank exchange of views): This allows information to be withheld if disclosure of the information would, or would be likely to, cause substantial harm.
- Section 30(c)(effective conduct of public affairs): This allows information to be withheld where disclosure would, or would be likely to, cause substantial harm.
- Section 33(1)(b)(commercial interests): This allows information to be withheld where it relates 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 35(1)(a)(prevention or detection of crime): This allows information to be withheld if disclosure of the information would, or would be likely to, cause substantial prejudice.
- Section 38(1)(b)(personal data relating to third party): This allows information to be withheld if it is personal data.

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