

## Executive Advisory Body

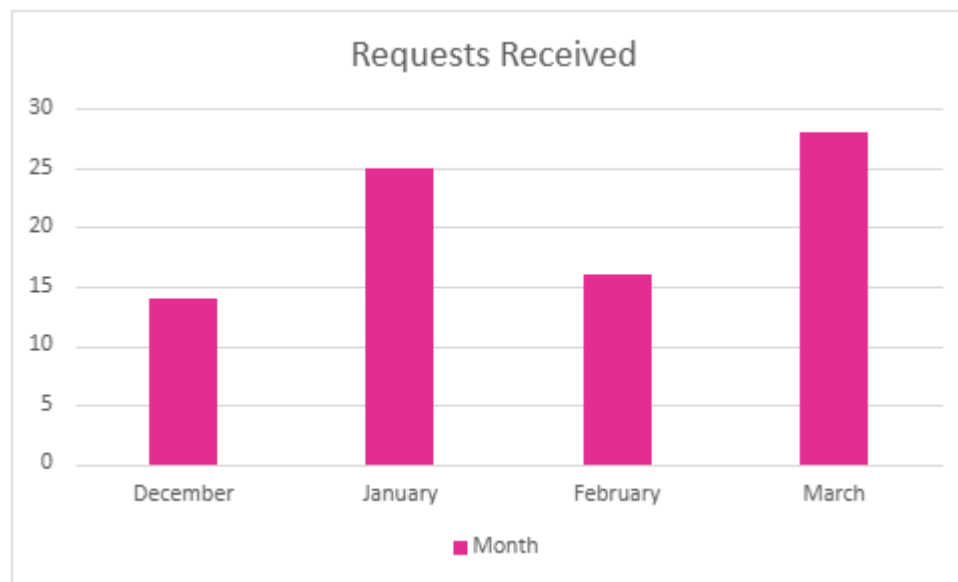
<b>Date of Meeting</b>	Tuesday 29 April 2025
<b>Subject</b>	Overview of compliance with the Freedom of Information (Scotland) Act 2002
<b>Agenda No.</b>	Below the line
<b>Paper No.</b>	7.1
<b>Prepared By</b>	Freedom of Information team
<b>Purpose</b>	Monitor

### 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 December 2024 to March 2025. 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 December 2024 Social Security Scotland has received 83 new requests for information and one request for review. Fourteen of the requests were received in December, 25 in January, 16 in February and 28 in March. Since the last report 74 responses have been issued. There are 11 current requests.



2.2. Between December 2024 and March 2025 we have received 83 requests for information with one request for review. For comparison, during the same period in 2023-2024 we received 41 requests for information and two requests for review.

2.3. One request for review was received.

The Applicant had asked why are people who hold full driving licences, were still given ADP under the Planning and Following a Journey criteria. He disagreed with our response that the criteria for planning and following a journey does not specifically preclude someone holding a full driving licence, and that the eligibility criteria for devolved benefits is a matter for the Scottish Government in line with policy objectives. They believed that this did not answer their question and that it was deliberately obtuse and blaming a source without taking responsibility for the application of actual eligibility criteria. The original decision was upheld but with one modification in providing a formal notification that we were refusing their request under section 17(1) of FOISA – information not held, as this was omitted from the original response.

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

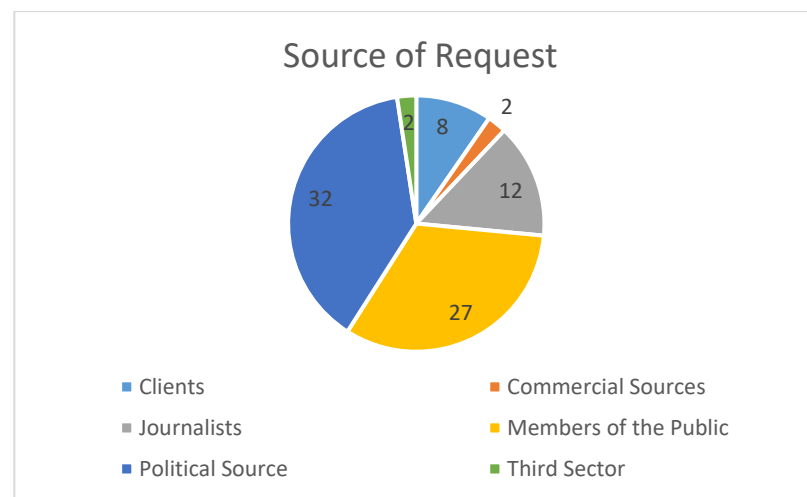
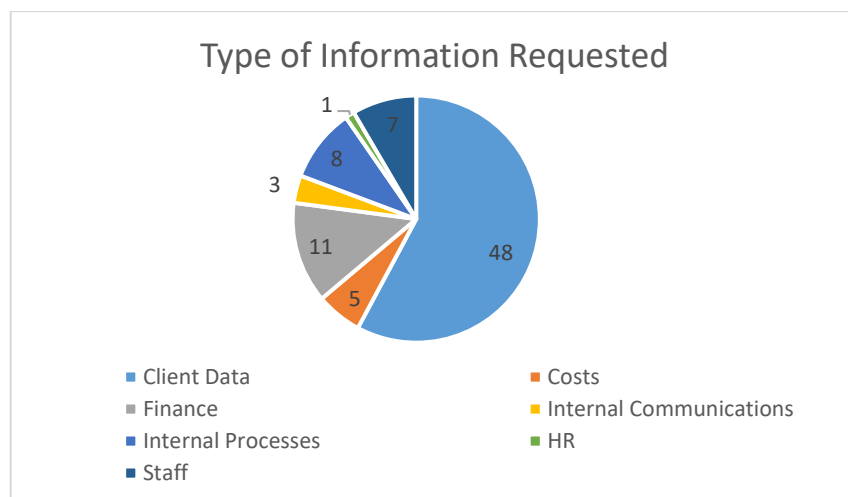
requests within the timescales afforded by the Act. Social Security Scotland has exceeded this target with an on-time response rate of 100% since the last report.

A monthly performance breakdown is provided in Annex A.

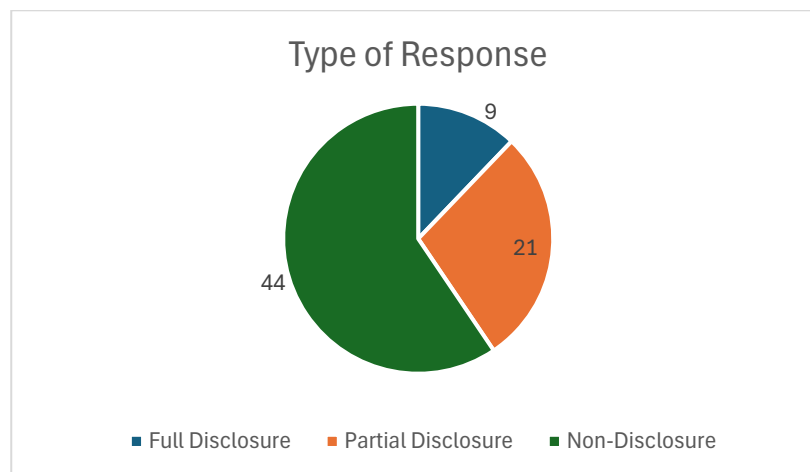
- 2.5. We record the type of information requested and the requester in order to identify patterns and inform decisions on proactive publication of information.

Forty-eight requests related to Client Data, 11 to Finance, eight for Internal Processes, seven for Staff (including numbers), five for Costs (including accommodation), three for Internal Communications and one for HR

Of the 83 requests received in the period specified, 32 were from political sources, 27 from Members of the Public, 12 from Journalists, eight from Clients and two each from the third sector and commercial sources.



- 2.6. Of the 74 responses issued, information was disclosed in full in nine requests and in part in 21 requests. No information was disclosed in 44 requests. Notices were applied from Sections 12 of the Act. Exemptions applied to withhold information were Section 12, Section 14(2), Section 17, Section 25(1), Section 30(c) 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. There does not appear to be any specific trend in the types of Freedom of Information requests we are receiving, whether from members of the public, Political Researchers or Journalists. We do see that where members of the public are asking for information, it can often be linked to them gaining insight into an area which has possibly impacted them directly, such as Change of Circumstances processing times. Political Researchers and Journalists have been asking questions about a range of issues relating to our performance for the benefits we deliver. This is also seen with the types of requests received by our Parliamentary Team colleagues.

2.9. Since the last report we received the outcome from the Office of the Scottish Information Commissioner in relation to the first appeal for the organisation.

The appeal was raised by a Requester in relation to an FOI response and subsequent Review Response which we issued last 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.

The outcome was that the Commissioner upheld our response.

### **3. Conclusions**

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

## 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
December	2024	17	0	0	100%	n/a	n/a	n/a	n/a
January	2025	17	0	0	100%	0	0	0	n/a
February	2025	22	0	0	100%	0	0	0	n/a
March	2025	18	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 £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 14(2)(repeat request): where a public authority has complied with a request from a person for information, it is not obliged to comply with a subsequent request from that person which is identical or substantially similar unless there has been a reasonable period of time between the making of the request complied with and the making of the subsequent request.
- 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