

Executive Advisory Body

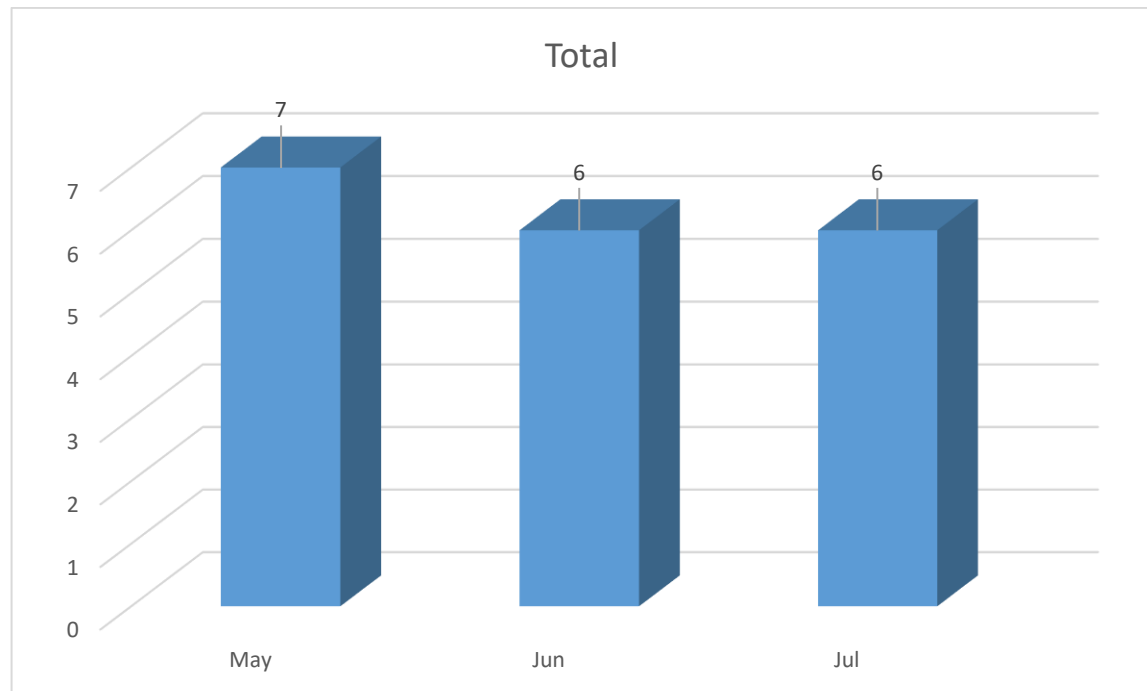
Date of Meeting	Tuesday 23 August 2022
Subject	Overview of compliance with the Freedom of Information (Scotland) Act 2002
Agenda No.	31 - Below the Line
Paper No.	31.4
Prepared By	Freedom of Information team
Purpose	Monitor

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 May 2022 to July 2022. 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

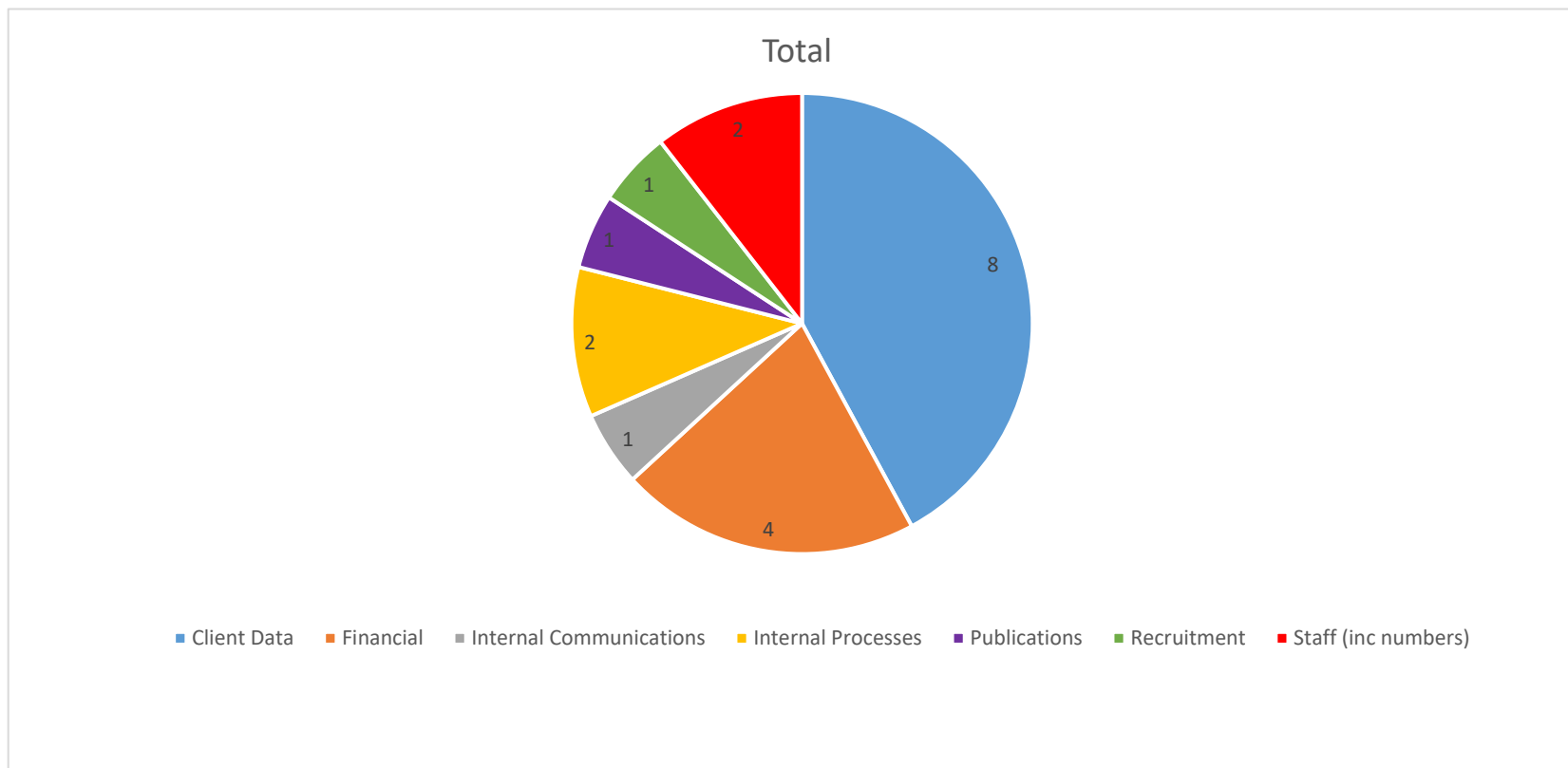
2.1. Since 1 May 2022 Social Security Scotland has received 19 new requests for information. Since the last report 14 responses have been issued. There are seven current requests. Seven of the requests were received in May, six in June, with six in July.



- 2.2. Between May 2022 and July 2022, we have received 19 requests for information with one request for review. For comparison, during the same period in 2021 we received 5 requests for information with zero requests for review.
- 2.3. 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.

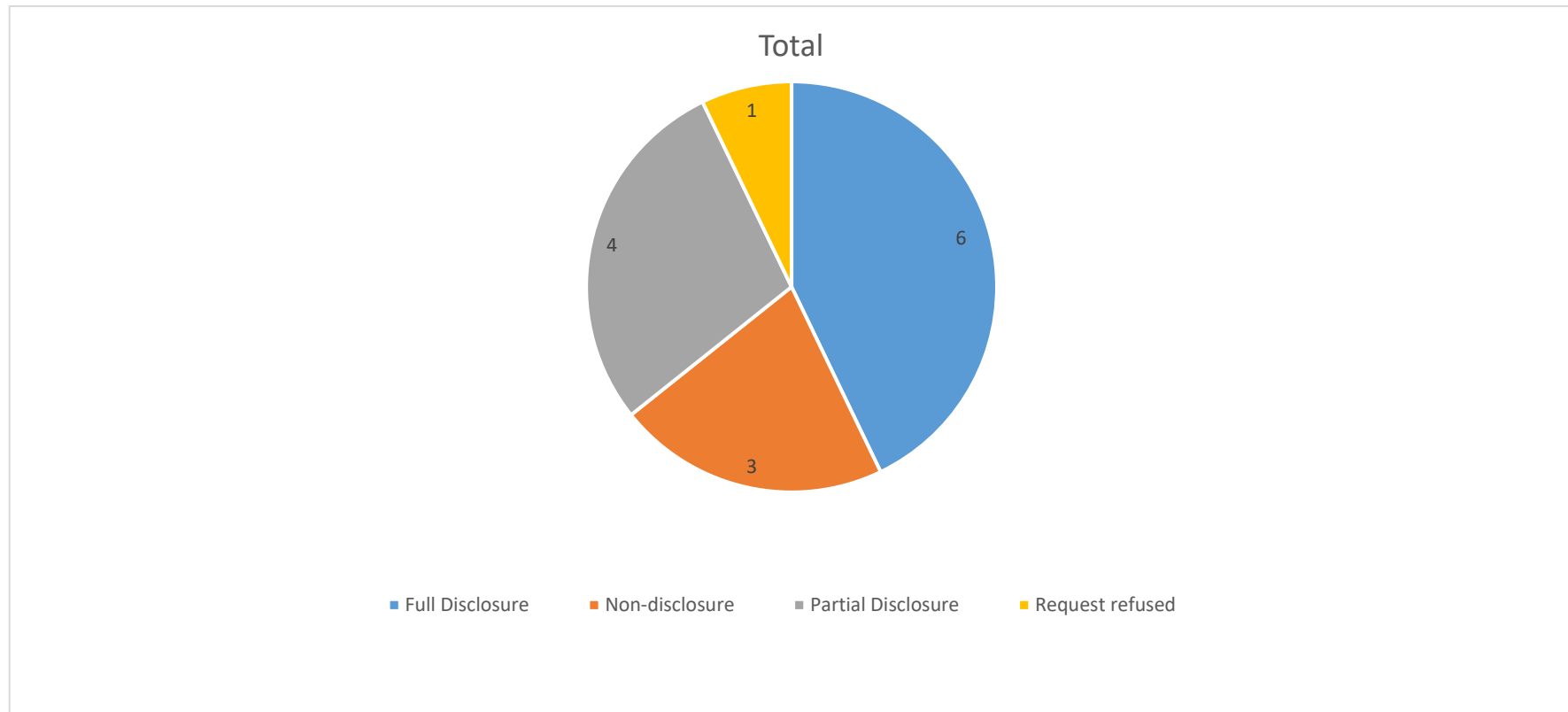
A monthly performance breakdown is provided in Annex A.

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



Of the 19 requests received in the period specified, eight were from members of the public, one was from a commercial source and ten from a political source.

2.4 Of the 14 responses issued, information was disclosed in full in six requests and in part in four requests. No information was disclosed in one request and one request was refused. A notice applied was Section 12 of the Act. Exemptions applied to withhold information were Section 17, Section 25(1), Section 38(1)(b), Section 35(1)(a), Section 30(b)(ii) and Section 30(c). Details of notices and exemptions can be found in Annex B.



- 2.5 One request for review was received. We had treated a casual request as Business as Usual. The Applicant responded immediately to our communication. Whilst it was not clear whether the individual was dissatisfied with our communication, we concluded that, on balance, it would be prudent to treat this response as a request for review.
- 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:
- <https://www.socialsecurity.gov.scot/publications>
- 2.7 We have not been notified of any applications to the Scottish Information Commissioner since the last report.

3. Conclusions

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

4. GOVERNANCE CHECKLIST

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.
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	
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	

Strategic Objective	Contribution
Communications and Presentation	Respecting rights of individuals contributes to client and stakeholder confidence in the delivery of the benefit system by Social Security Scotland.

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.
Business and Regulatory Impact Assessment (BRIA)	N	Not relevant	
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	
Future proofing legislation	N	Not relevant	
Human rights in policy making	N	Not relevant	
Islands Communities Impact Assessment (ICIA)	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.
<u>Strategic Environment Assessment (SEA)</u>	N	Not relevant	

Information Commissioner Monthly Performance Reports (Jan 2022 – April 2022)

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	7	0	0	100%	n/a	n/a	n/a	n/a
June	6	0	0	100%	n/a	n/a	n/a	n/a
July	6	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 £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