

Executive Advisory Body

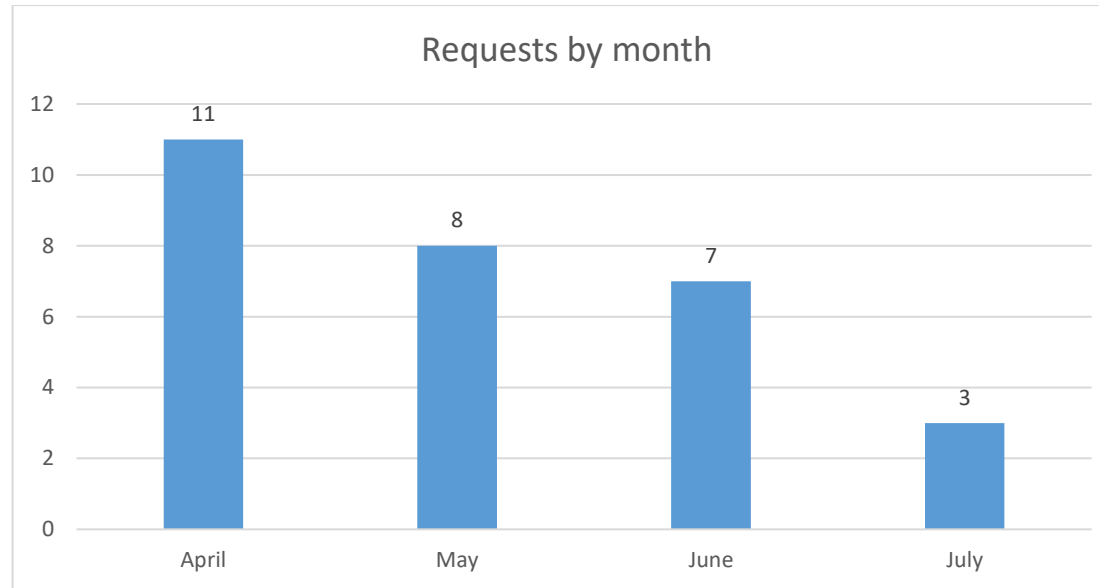
Date of Meeting	Tuesday 03 September 2024
Subject	Overview of compliance with the Freedom of Information (Scotland) Act 2002
Agenda No.	Meeting 45
Paper No.	Below the Line – 5.3
Prepared By	Freedom of Information team
Purpose	Monitor

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 April 2024 to July 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 April 2024 Social Security Scotland has received 29 new requests for information and three requests for review. Eleven of the requests were received in April, eight in May, seven in June and three in July. Since the last report 39 responses have been issued. There are ten current requests.



2.2. Between April 2024 and July 2024 we have received 29 requests for information with three requests for review. For comparison, during the same period in 2023 we received 36 requests for information with zero requests for review.

2.3. Three requests for review were received.

The first review contested our decision to withhold the number of adults in receipt of Adult Disability Payment whose payments were revoked due to fraud. To have released this information would substantially prejudice Social Security Scotland's ability to prevent and detect fraudulent activity. The original response was upheld at review.

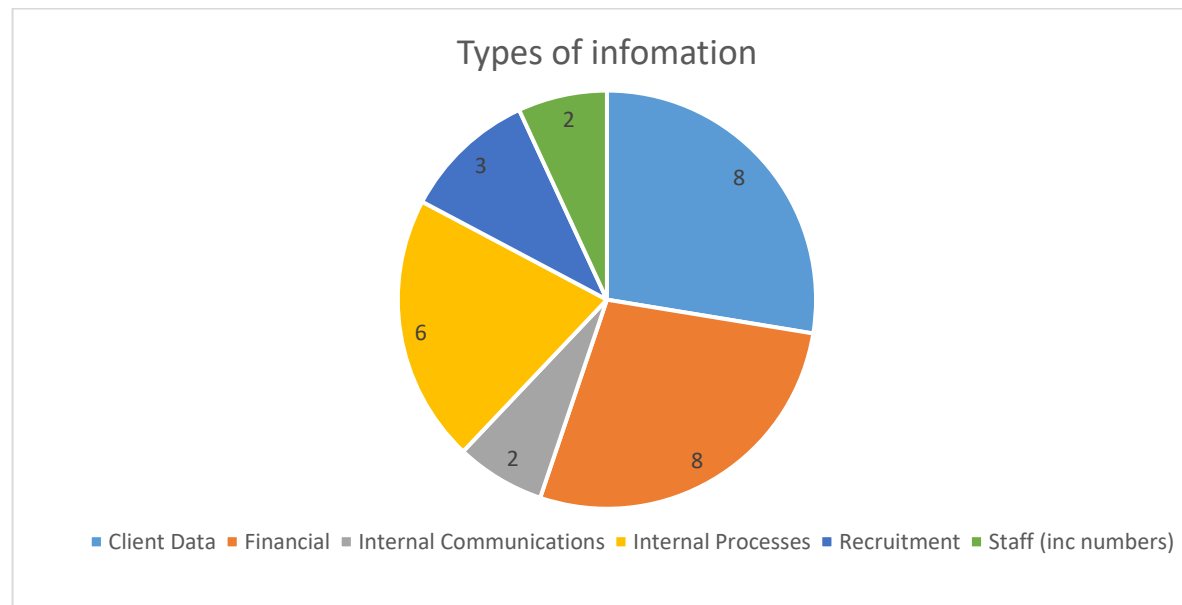
The second review contested that we do not hold a list detailing the conditions of those recipients of non-UK nationalities who received Adult Disability Payment. A different decision was substituted at review and the Applicant was advised that to locate and retrieve the information would breach the cost limit.

The third review related to a request for the professional qualifications held our health and social care practitioners. The Applicant made additional requests for information, however, they contained personal information, meaning they were handled separately as a Subject Access Request. Having received the Freedom of Information response the requester queried why particular sections of their request had not been answered. The review response clarified that the those sections related to the Applicant's own personal information and were handled separately as a Subject Access Request.

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.

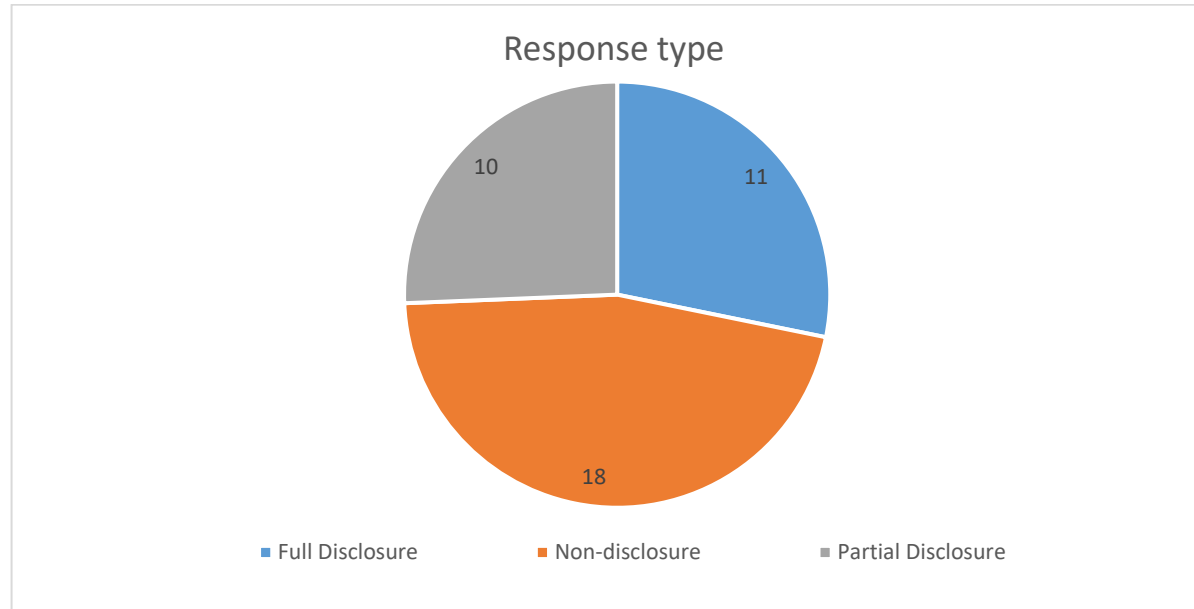
2.5. We record the type of information requested and the requester in order to identify patterns and inform decisions on proactive publication of information.



Of the 29 requests received in the period specified, eight were from Members of the Public, six from commercial sources, five each from journalists and clients, four from political sources, and one from a member of staff.

2.6. Of the 39 responses issued, information was disclosed in full in 11 requests and in part in 10 requests. No information was disclosed in 18 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. 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

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
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

Strategic consideration	Impact
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	
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 (April 2024 – July 2024)

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
April	11	0	0	100%	0	n/a	n/a	n/a
May	12	0	0	100%	2	n/a	n/a	100%
June	3	0	0	100%	n/a	n/a	n/a	n/a
July	9	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