

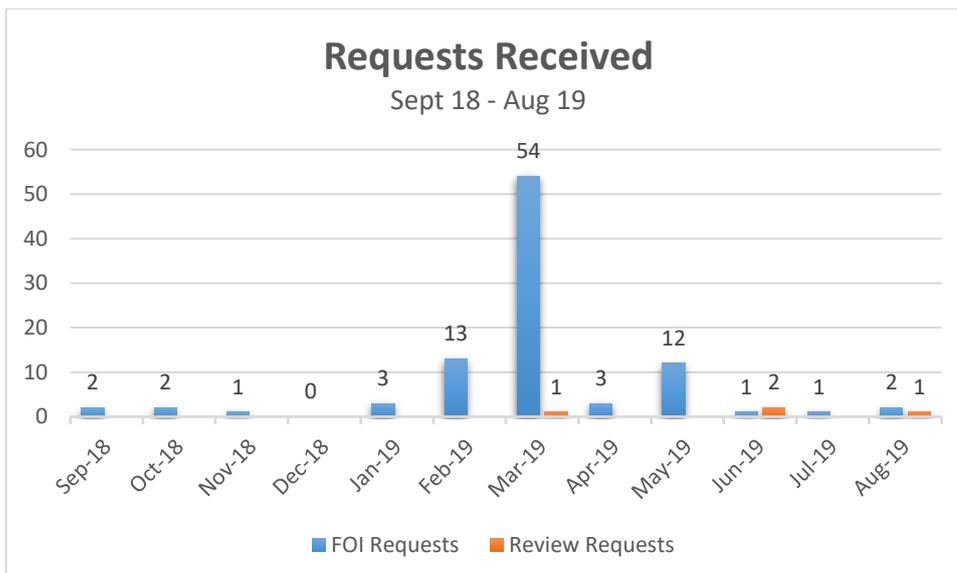
Executive Advisory Body	
Date of Meeting	Tuesday 01 October 2019
Subject	Overview of FOI performance
Agenda No.	Below the Line
Paper No.	9.9
Prepared By	[Redacted – s. 38(1)(b) personal information]
Purpose	Monitor

1. Background

- 1.1. Now that the Social Security Scotland has turned a year old it was considered appropriate to give a brief overview of the Agency’s overall Freedom of Information (FOI) performance throughout its first year.
- 1.2. The Executive Advisory Body requested this paper in follow-up to the input by [Redacted – s. 38(1)(b) personal information] to the meeting of the Executive Advisory Body on 20 Aug 2019 on our approach to improving FOI performance.

2. Key points

- 2.1. From September 2018 to August 2019, Social Security Scotland has received to a total of 94 FOI requests and 4 FOI review requests.
- 2.2. The majority of these requests were received in March, when 54 requests were responded to. Though we did receive an increase number of requests in March, 35 requests were submitted by one individual and were found to be vexatious.



- 2.3. The Information Commissioner monitors Social Security Scotland’s FOI performance on a monthly basis, alongside all other directorates and agencies

in the Scottish Government, issuing a report at the end of each month. Until Feb 2019, Social Security Scotland was reported on as part of Social Security Directorate; since Feb 2019 the agency appears separately in Scottish Government and Information Commissioner reporting.

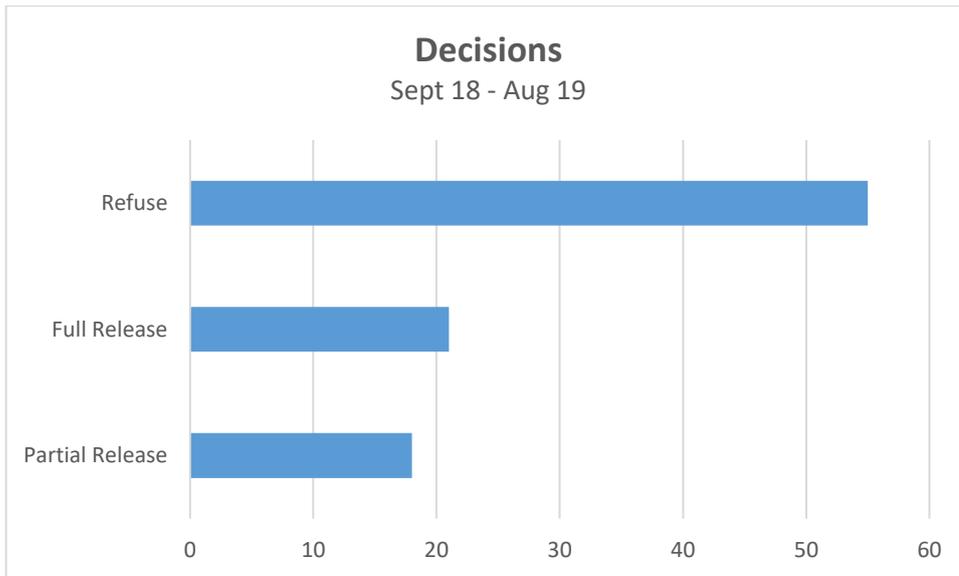
- 2.4. The Commissioner’s office judges FOI performance based on requests due in a month, with every directorate and agency having a target of 95% of requests being issued on time. Social Security Scotland has met this target on two occasions for its FOI performance, July and August 2019 and twice for its FOI review performance, in April and July.

A monthly performance breakdown is at Annex A.

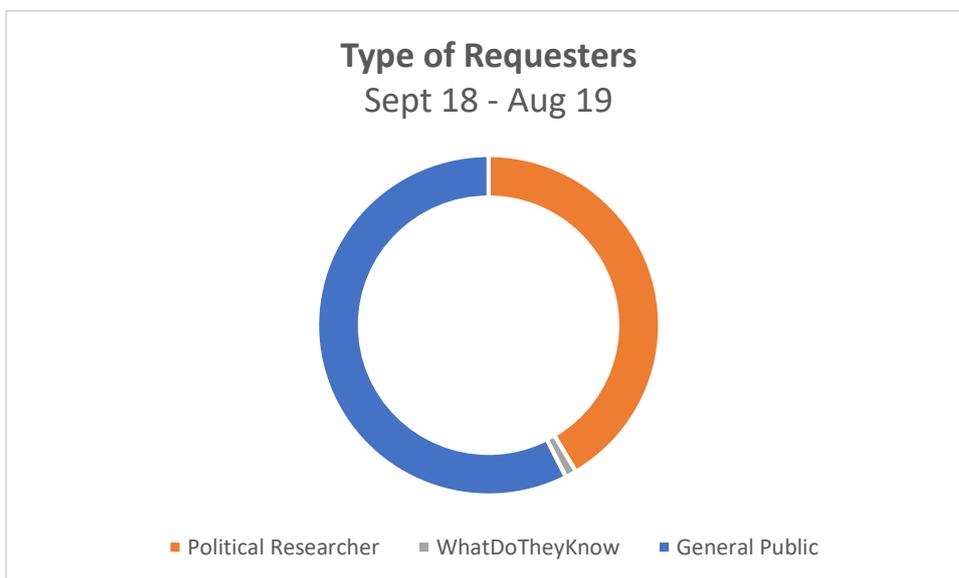
- 2.5. Social Security Scotland’s overall performance for its first year, September 2018 to August 2019, stands at 86% of responses issued on time.



- 2.6. The types of FOI responses issued are broken down into ‘full release’, ‘partial release’ and ‘refusal’. A refusal refers to the application of a certain set of exemptions: section. 12 (upper cost limit); section. 14(1)(vexatious); section. 17(information not held); section. 25(1)(information otherwise accessible); section. 27(1)(information intended for future publication). In its first year, the majority of Social Security Scotland’s responses have been refusals, 55 responses have used the exemptions listed above. Again, the 35 vexatious requests in March inflate this figure. Aside from the vexatious requests, the most commonly used ‘refusal’ exemptions are section. 17(information not held) and section. 27(1)(information intended for future publication).



2.7. Over this year, the majority of requesters have been individuals. Social Security Scotland has received 54 FOI requests from individuals. The 35 vexatious requests received in March were submitted by an individual which accounts for this large number. We have received 39 requests from political researchers, of which 38 have come from the same two people.



3. Conclusions

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



4. GOVERNANCE CHECKLIST

Strategic Objective	Contribution
<p>Dignity, fairness and respect</p> <p>Delivering a service with dignity, fairness and respect at its core.</p>	
<p>Equality and tackling poverty</p> <p>Promoting equality and tackling poverty.</p>	
<p>Efficiency and alignment</p> <p>Ensuring efficiency and aligning our activities with wider public sector for the benefit of the people we serve.</p>	<p>This paper contributes to the strategic objective, “we will continuously improve our services”.</p>
<p>Economy, society and environment</p> <p>Contributing to our economy, society and protection of our environment.</p>	

Strategic consideration	Impact
Environment	
Governance	This paper is intended as a discussion document for overall FOI performance for the year.
Data	
Finance	
Staff	
Equalities	
Estates	
Communications and Presentation	

Information Commissioner Monthly Performance Reports

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
February	2	1	0	67%				n/a
March	13	0	1	93%				n/a
April	48	4	2	89%	1	0	0	100%
May	0	3	0	0%				n/a
June	8	4	1	62%				n/a
July	1	0	0	100%	2	0	0	100%
August	2	0	0	100%	1	0	1	50%



FOI Exemptions

Annex B

Exemptions 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.
- 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