

Freedom of Information (Scotland) Act 2002: Information Request Handling - Annual Report 2019

December 2021



Scottish Government
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Foreword

The new Minister for Parliamentary Business reflects on the Scottish Government's 2019 report and its ongoing improvement journey in relation to Freedom of Information.



I am pleased to present the Scottish Government's 2019 Annual Report on the handling of information requests made to us under the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIRs).

In previous years, the report contained statistical detail on request handling allowing for a broad comparison with data contained in previous reports. Over the course of 2019 we welcomed a new case management system which ran in parallel with our former FOI tracker for much of the year, a gradual transition taking place between two systems over the course of the year. This has placed limitations on our ability to extract data on exactly the same basis as we have done in previous reports. Consequently the methodology in this 2019 report is a little different, drawing primarily on data previously provided to the Scottish Information Commissioner in our monthly performance reports¹.

This report nevertheless demonstrates that in 2019 the Scottish Government made continued progress in its overall request handling performance, following the Commissioner's Interventions, the ongoing implementation of the action plan agreed with the Commissioner and other positive steps taken. This is also reflected in the Commissioner's Initial progress report from July 2019. The 2019 calendar year saw continuing high levels of information requests being made to the Scottish Government and its agencies. A total of 3,049 requests were received during this year. The number of requests for review have remained almost static since the previous year, at a total of 276.

In 2019, we responded to 93% of requests within the statutory 20 working day deadline (in the 2019-20 operational year, we achieved the Scottish Information Commissioner's target of 95% for the operational year). We also responded to 85% of all requests for internal review on time.

¹ [Freedom of Information \(FOI\) reporting - gov.scot \(www.gov.scot\)](http://www.gov.scot)

I am pleased with the significant improvement in the Scottish Government's request handling performance. However, our improvement journey - more recently interrupted by Covid - remains to be completed and we recognise there is no room for complacency.

Following the Commissioner's intervention, his June 2018 intervention report and the agreed action plan in November 2018, 2019 saw continuous improvement as we implemented work to improve the effectiveness and robustness of our request handling process. This included an enhanced role for our central FOI Unit, the creation of a designated body of case handlers across the Scottish Government and changes to guidance, training and support for staff.

Further information on the Scottish Information Commissioner's Intervention can be found on the Commissioner's website² and on the Scottish Government's website³.

Over the course of 2019 we progressed action to take forward the extension of FOISA to Registered Social Landlords. In April 2019 the Scottish Parliament approved an Order under section 5 of the Act, designating Registered Social Landlords (RSLs) and their subsidiaries as subject to FOI from Monday 11 November 2019. The Commissioner has recently undertaken work to assess the experience of RSLs⁴, after their first year of designation.

In 2019 we also carried out a public consultation on the future use of Scottish Ministers powers under section 5 to extend coverage of the Act to further entities, and contributed to the work of the Parliament's Public Audit and Post-legislative Scrutiny Committee in undertaking post-legislative scrutiny of FOISA. We are continuing to take forward policy workstreams arising from both of those exercises.

Having recently assumed portfolio responsibility for FOI, I am pleased to inherit the firm foundation of operational improvement work and policy development activity which has been laid in recent years. The intervention of the Covid emergency in 2020 subsequently interrupted our progress in relation to both. However, we are now carrying these forward with renewed energy.

Access to information rights is a key pillar of our wider commitment to openness and our efforts to strengthen democratic participation in Scotland. As the responsible Minister I am determined to ensure that we continue to maintain a robust information rights regime and that the Scottish Government fully discharges its own obligations under that regime.

GEORGE ADAM

² [Intervention 201702016 Scottish Government \(itspublicknowledge.info\)](https://itspublicknowledge.info/Intervention-201702016-Scottish-Government)

³ [Freedom of information \(FOI\): document collection - gov.scot \(www.gov.scot\)](https://www.gov.scot/Information/FOI/DocumentCollection)

⁴ [Registered Social Landlords 'responding well' to FOI \(itspublicknowledge.info\)](https://itspublicknowledge.info/Registered-Social-Landlords-responding-well-to-FOI)

Key statistics – 2019 at a glance

- **3,049 requests for information were responded to.**
- **2,843 requests (93%) were responded to on time.**
- **276 requests for an internal review were responded to.**
- **235 review requests (85%) were responded to on time.**
- **44 appeals to the Scottish Information Commissioner for decision.**
- **50% of the Scottish Information Commissioner Decisions regarding the Scottish Government in 2019 were upheld or partially upheld.**

Requests for information

Background

The Scottish Government is committed to Freedom of Information as an essential part of open, democratic government and responsive public services. Furthermore, we proactively publish as much information as possible via our [website](#) without it having to be requested.

You can find out more about the [Freedom of Information \(Scotland\) Act 2002](#), including how to request information from the Scottish Government, from the [FOI section](#) of our website.

In addition to the summary below, you can find out more about our performance and response times for handling Freedom of Information requests in the [FOI Reporting](#) section of our website.

We continued to publish information released in response to Freedom of Information requests. You can view all published FOI responses in the [Publications section](#) of our website.

All Scottish public authorities (including the Scottish Government) provide quarterly FOI/EIR statistics to the Scottish information commissioner. This can be found at the following link: [STATS - Scottish Information Commissioner](#)

Number of requests responded to

In total, 3049 requests for information were responded to in 2019 under both FOISA and EIRs

Requests are answered by the business area responsible for the subject matter of the request. Details about the functions of the Scottish Government are available on the [About the Scottish Government section](#) of our website.

Requests	Total
DIRECTOR-GENERAL CONSTITUTION AND EXTERNAL AFFAIRS	196
DIRECTOR-GENERAL ECONOMY	1179
DIRECTOR-GENERAL EDUCATION, COMMUNITIES AND JUSTICE	695
DIRECTOR-GENERAL HEALTH & SOCIAL CARE	287
DIRECTOR-GENERAL ORGANISATIONAL DEVELOPMENT AND OPERATIONS	655
DIRECTOR-GENERAL SCOTTISH EXCHEQUER	37
Total	3049

The number of requests responded to averaged 254 per month with actual figures ranging from 315 requests in April to 193 requests in June.

Performance

The majority (93%) of requests for information received by us were processed on time in 2019, i.e. within 20 working days of receipt of the request. Of the 3,049 requests responded to in 2019, 2,843 were answered on time and 206 were late.

Requests	No Requests	No Requests On Time	No Requests Late	% On time*
DIRECTOR-GENERAL CONSTITUTION AND EXTERNAL AFFAIRS	196	195	1	99%
DIRECTOR-GENERAL ECONOMY	1179	1119	60	95%
DIRECTOR-GENERAL EDUCATION, COMMUNITIES AND JUSTICE	695	648	47	95%
DIRECTOR-GENERAL HEALTH & SOCIAL CARE	287	262	25	91%
DIRECTOR-GENERAL ORGANISATIONAL DEVELOPMENT AND OPERATIONS	655	582	73	89%
DIRECTOR-GENERAL SCOTTISH EXCHEQUER	37	37	0	100%
Total	3049	2843	206	93%

*Withdrawn cases and cases not proceeded with are omitted from the performance calculation.

Internal reviews

Background

Where an applicant is dissatisfied with the way in which the Scottish Government has dealt with a request for information they may ask us to carry out an internal review. Of the requests responded to, only 9% resulted in an internal review being requested.

Number of review requests responded to

In total, 276 reviews were responded to by the Scottish Government in 2019.

Reviews	Total
DIRECTOR-GENERAL CONSTITUTION AND EXTERNAL AFFAIRS	24
DIRECTOR-GENERAL ECONOMY	82
DIRECTOR-GENERAL EDUCATION, COMMUNITIES AND JUSTICE	51
DIRECTOR-GENERAL HEALTH & SOCIAL CARE	30
DIRECTOR-GENERAL ORGANISATIONAL DEVELOPMENT AND OPERATIONS	89
DIRECTOR-GENERAL SCOTTISH EXCHEQUER	0
Total	276

Performance

The majority (85%) of all requests for review responded to in 2019 were responded to on time. Of the 276 reviews responded to, 235 were answered on time and 41 were late.

Reviews	No Reviews	No Reviews On Time	No Reviews Late	% Reviews Late
DIRECTOR-GENERAL CONSTITUTION AND EXTERNAL AFFAIRS	24	24	0	100%
DIRECTOR-GENERAL ECONOMY	82	71	11	87%
DIRECTOR-GENERAL EDUCATION, COMMUNITIES AND JUSTICE	51	44	7	86%
DIRECTOR-GENERAL HEALTH & SOCIAL CARE	30	23	7	77%
DIRECTOR-GENERAL ORGANISATIONAL DEVELOPMENT AND OPERATIONS	89	73	16	82%
DIRECTOR-GENERAL SCOTTISH EXCHEQUER	0	0	0	n/a
Total	276	235	41	85%

Appeals to the Scottish Information Commissioner

Background

If an applicant is unhappy with the outcome of our internal review, an appeal can be made to the Scottish Information Commissioner for a decision on whether we have appropriately dealt with the request and requirement for review.

Number of appeals made

In 2019, 44 appeals were made to the Commissioner in relation to our handling of information requests.

Decisions by the Commissioner

24 Decisions were made by the Commissioner during 2019 in relation to requests made to the Scottish Government. 50% (12) were wholly or partially in our favour. 12 decisions relating to appeals about the substance of a response were fully in favour of the applicant. The remaining 4 cases related to decisions made by the Commissioner about our technical or procedural handling of requests or reviews.

More information about appeals to the Commissioner and his decisions can be found on his website⁵.

⁵ [Scottish Information Commissioner \(itspublicknowledge.info\)](https://www.scot.nhs.uk/scotpublicknowledge/info)

Costs of responding

In 2012, the Scottish Government undertook a costing exercise to provide an estimate of the amount of time/money it takes officials to respond to requests. The [report on the findings](#) of this exercise was published in 2012. Combined average cost figures from Table 12 of this report have been used as the basis for costings in previous annual reports.

In 2018 we updated these estimates. Our revised estimates for the combined average cost of each stage of the process are:

Stage	Cost
Requests	£234
Reviews	£454
Appeals	£1456

Based on these updated figures, the estimated cost of responding to information requests, reviews and appeals during 2019 is shown in the table below.

Stage	Cost
Requests	£713,466
Reviews	£125,304
Appeals	£64,064
Total	£902,834

Coverage of this report

The Scottish Government has a number of Directorates and Executive Agencies. However, not all of these are included within its integrated IT network. Some bodies therefore do not have access to our Information Request Tracker which monitors handling of requests for information (or its replacement, MiCase) and are not included in this Report.

This report includes data from:

- Directorate-General Constitution and External Affairs
- Directorate-General Economy, including:
 - Accountant in Bankruptcy
 - Transport Scotland
- Directorate-General Education, Communities and Justice, including:
 - Disclosure Scotland
 - Education Scotland
 - Student Awards Agency for Scotland
- Directorate-General Health and Social Care
- Directorate-General Organisational Development and Operations, including:
 - Social Security Scotland
- Directorate-General Scottish Exchequer, including:
 - Scottish Public Pensions Agency

Bodies whose data is not included:

- Registers of Scotland
- Office of the Scottish Charity Regulator
- Scottish Prison Service



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