



Freedom of Information, Environmental Information and Subject Access Request Report

1 April 2011 – 31 March 2012

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Introduction

This report is intended to provide an overview of requests processed under the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR) and the subject access provisions of the Data Protection Act 1998 (SAR) between 1 April 2011 and 31 March 2012. The report identifies key themes and makes recommendations as to the information that should be published by services to improve access to information and reduce the number of requests the Council is required to process.

Following the publication of last year's annual report, many services have taken steps to publish information on the Council's website. There is now a dedicated section entitled Open Data at:

<http://www.darlington.gov.uk/Generic/councilinfo/Statistics/opendata.htm>

In addition to the statistical information presented, it is important to recognise the work of the Complaints and Information Governance (CIG) Team, which provides advice to the service areas tasked with collating the information requested in order to respond to individual requests or publishing information online. The CIG Team also provides a valuable link to senior managers, Members, Legal Services and Communications.

A note about recommendations

As stated above, many services have published data following last year's annual report. It has also become evident that some data held by services is published by other organisations via annual returns, for example, government agencies and the Chartered Institute of Public Finance and Accountancy (CIPFA). Where this is the case, the CIG Team (often with advice from the service area) has been able to direct the applicant to the appropriate web address and refuse the request under section 21 of the FOIA (information reasonably accessible by other means).

Some of the recommendations from last year's annual report have not, however, been acted upon. In some cases, a reasoned decision not to publish information was made, for example, if the information changes so regularly that any information published would be instantly out of date and misleading to the public.

Overview of FOIA, EIR and SAR

The FOIA provides a right of access to information held by public authorities in a recorded format. Anyone can submit a request for information to a public authority subject to the FOIA and is entitled to be informed whether the authority holds the information. If the information is held by the authority, it must be supplied to the applicant unless an exemption applies. The applicant must be

informed whether the information is held and, if so, be provided with a copy of the information or a refusal notice within 20 working days.

The EIR provide a right of access to 'environmental information' held by public authorities and certain other bodies. Again, anyone can submit a request under the EIR and they are entitled to be informed whether the authority holds the information and, if so, be provided with a copy of it unless an exception applies. In most cases, the applicant must be informed whether the information is held and, if so, be provided with a copy of the information or a refusal notice within 20 working days. In limited circumstances, the timescale can be extended to a maximum of 40 working days if the request is "complex or voluminous".

The SAR provisions of the Data Protection Act 1998 provide individuals with a right of access to their personal data. A SAR can be made to any organisation that processes personal data (known as a data controller), which means that the provisions do not just apply to public authorities. Any individual submitting a SAR is entitled, subject to the application of exemptions:

"(a) to be informed by any data controller whether personal data of which that individual is the data subject are being processed by or on behalf of that data controller,

(b) if that is the case, to be given by the data controller a description of—

(i) the personal data of which that individual is the data subject,

(ii) the purposes for which they are being or are to be processed, and

(iii) the recipients or classes of recipients to whom they are or may be disclosed,

(c) to have communicated to him in an intelligible form—

(i) the information constituting any personal data of which that individual is the data subject, and

(ii) any information available to the data controller as to the source of those data, and

(d) where the processing by automatic means of personal data of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his performance at work, his creditworthiness, his reliability or his conduct, has constituted or is likely to constitute the sole basis for any decision significantly affecting him, to be informed by the data controller of the logic involved in that decision-taking.

A data controller must respond to a SAR within 40 calendar days.

Processing requests

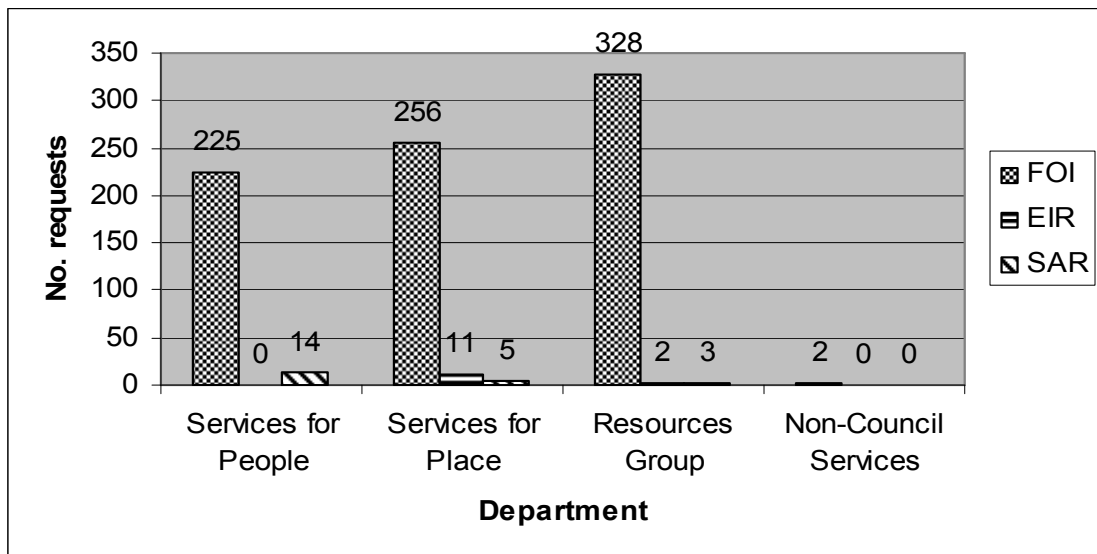
FOIA and EIR requests are processed in a similar way. Requests are sent to the CIG Team, which reviews them and, if valid, logs them onto the electronic request management system. An acknowledgement letter or e-mail is sent to the applicant and then the request is assigned to a manager/officer in the service most likely to hold the information. The manager/officer will then provide the CIG Team with the requested information or explain why the information cannot be provided (i.e. because an exemption applies, the information is not held, the request is vexatious/repeated or the cost of providing the information would exceed £450). The CIG Team then reviews the information provided or considers the reason(s) given by the service for not being able to provide the information and collates the response. In the case of more complex requests, the CIG Team will also circulate the response to senior managers, Members and the Communications Unit for approval before it is disclosed.

In terms of SARs, the applicant is required to request the information in writing, provide proof of identification and pay the fee of £10. On receipt of the three required elements, the CIG Team logs the request on the electronic request management system and sends an acknowledgement letter and receipt for the payment to the applicant. The CIG Team then contacts the relevant officer for a photocopy of any documents that form the personal data of the applicant; this is often an officer in Children's or Adult Social Care. The photocopied documents are then passed to the CIG Team, which reads through them and redacts (blacks out or removes) any third party data or irrelevant information. If necessary, the documents are reviewed by Legal Services before being disclosed to the applicant. A scanned copy of the documentation disclosed is retained by the CIG Team for audit purposes. It should be noted that the SAR process is often very lengthy due to the volume of information in question, for example, some SARs for social care files can involve the redaction of more than 10 large files.

On 22 March 2012, the CIG Team presented revised policies, procedures and practice guidance on the handling of requests for information to Chief Officer's Board (COB). The CIG Team has since made these documents available to members of the public and staff through publication on the Council's website and on iDarlington.

Overview of information requests

Between 1 April 2011 and 31 March 2012 the Council received 846 requests for information, 811 of which were dealt with under the Freedom of Information Act 2000 (FOI), 13 under the Environmental Information Regulations 2004 (EIR) and 22 under the subject access provisions of the Data Protection Act 1998 (SAR). This represents an increase of 176 requests when compared with last year, when the Council received 670 requests for information (590 FOI requests, 63 EIR requests and 21 SARs).

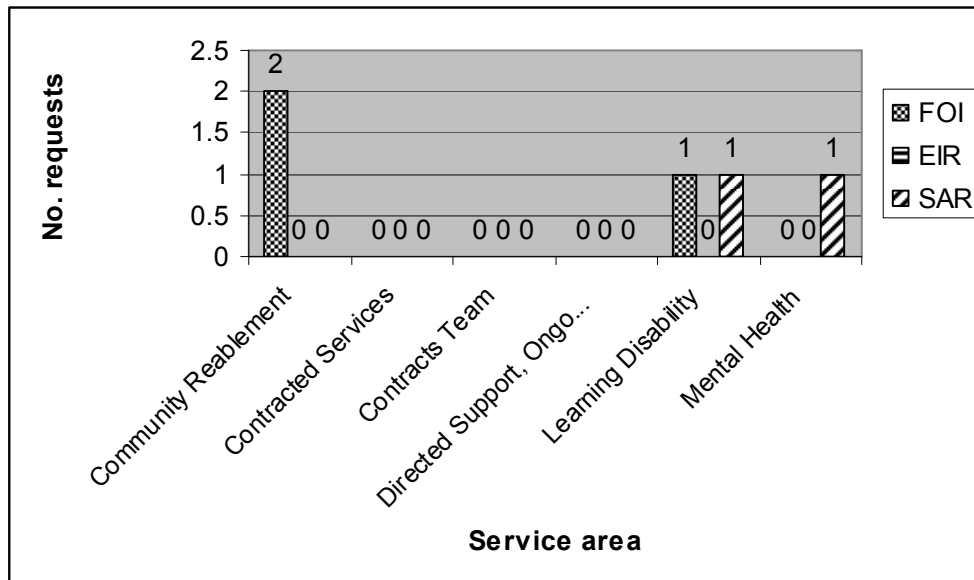


In terms of the overall volume of requests, Resources Group received the most requests (333), followed by Services for Place (272) and finally Services for People (239). There were also two requests for information held by non-Council services; these were transferred to the appropriate public authority. Due to the Council restructure at the beginning of 2011/12, which saw the number of departments reduced from four to three, it is not possible to draw any meaningful comparisons regarding the annual number of requests received at a departmental level.

When considering these volumes, it is important to note that the electronic case management system, from which these statistics are taken, only permits a request to be recorded against one service area. Some requests may have been assigned to a number of different service areas; however, we are unable to reflect this in this report. In such cases, the request is recorded against the service that provided the majority of the information.

Services for People

Adult Social Care



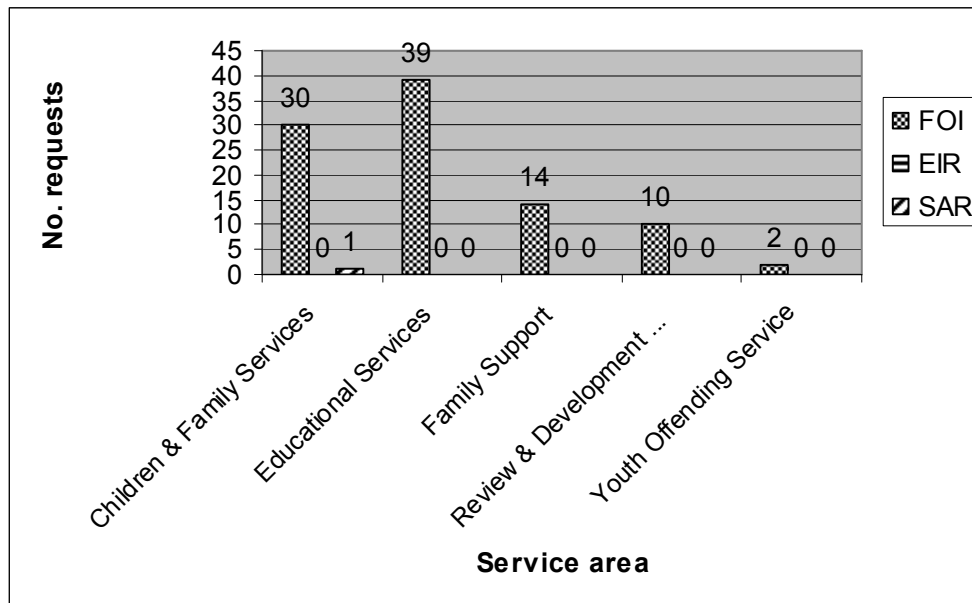
Given the low number of requests assigned to Adult Social Care, there are no emerging themes.

It is, however, important to note that there were 30 FOI requests assigned to People Finance Housing & Adult Social Care, which sits in Resources Group. Many of these requests were about Adult Social Care. More information about these requests can be found in the relevant section of this report.

Recommendations

There are no recommendations for this section.

Children, Families and Learning



The following themes should be noted in respect of the requests assigned to Children & Family Services:

- eight requests for statistical information about looked after children (LAC) and, in particular, the reasons for them being taken into care;
- five requests for copies of policies and procedures relating to children's social care;
- four requests for statistical information about children and young people running away from care; and
- three requests for information about the payments/allowances received by carers (i.e. foster carers, adopters, family placements).

The following themes should be noted in respect of the requests assigned to Educational Services:

- seven requests for information about asbestos in schools;
- five requests about special educational needs (SEN) placements;
- four requests about elective home education;
- four requests about school admissions;
- four requests relating to the changes to home-to-school transport provision; and
- three requests for statistical information about school exclusions.

The following themes should be noted in respect of the requests assigned to Family Support:

- five requests for details of Sure Start/Children's Centre budgets.

The following themes should be noted in respect of the requests assigned to Review and Development Safeguarding:

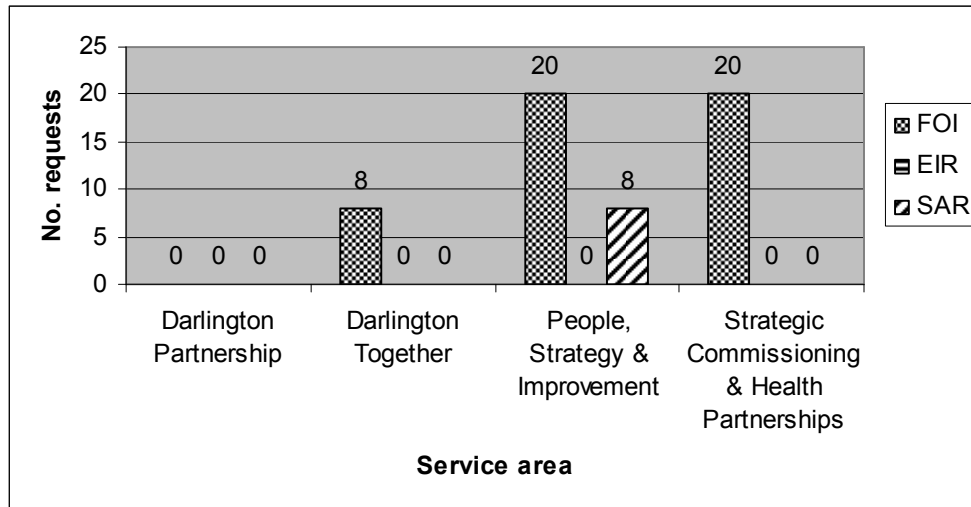
- three requests for statistical information about safeguarding referrals.

Recommendations:

The section should consider publishing:

- statistical data regarding LAC (providing that individual children and young people cannot be identified from the data);
- information about asbestos in schools;
- statistical data about SEN placements;
- policies and procedures relating to children's social care;
- details of Sure Start/Children's Centre budgets;
- statistics regarding children and young people running away from care;
- statistical data about school admissions;
- statistics and procedures relating to elective home education;
- information about home-to-school transport provision;
- details of the payments/allowances received by carers;
- statistics relating to school exclusions; and
- statistics relating to safeguarding referrals (providing that individual children, young people and adults cannot be identified from the data).

Development and Commissioning



The following theme should be noted in respect of the requests assigned to Darlington Together:

- three requests for information about third sector funding cuts.

The following themes should be noted in respect of the requests assigned to People, Strategy & Improvement:

- four requests for LAC statistics; and
- four requests for details of the ICT systems used by Adult and Children's Social Care and schools.

It is also important to note that eight of the requests assigned to People, Strategy & Improvement were processed as SARs. SARs in respect of children's social care files are assigned to the Access to Records Officer within People, Strategy & Improvement, hence the reason this service has a large proportion of SARs recorded against it.

The following themes should be noted in respect of the requests assigned to Strategic Commissioning & Health Partnerships:

- six requests for Supporting People budgets and expenditure; and
- four requests for details of public health arrangements.

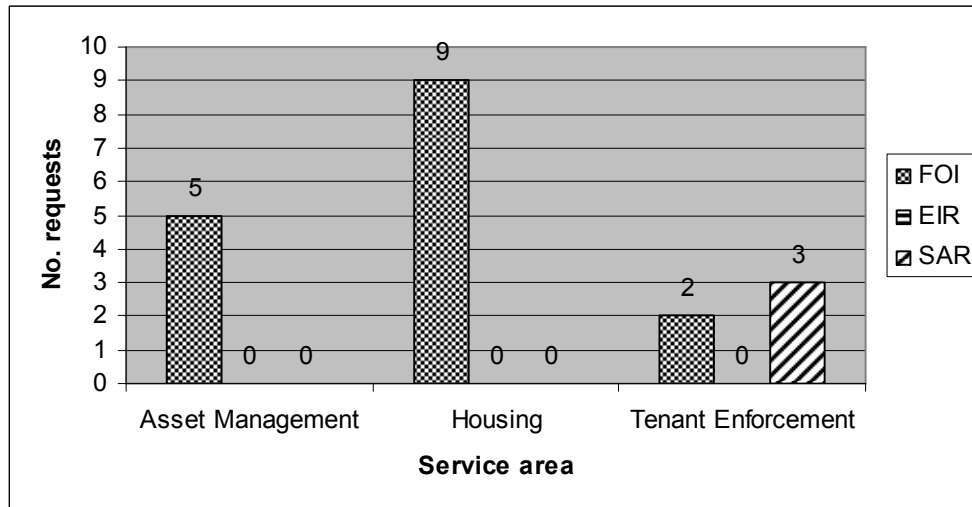
Recommendations

The section should consider publishing:

- details of Supporting People budgets and expenditure;
- statistics regarding LAC (providing that individual children and young people cannot be identified from the data);
- details of the ICT systems used by Adult and Children's Social Care and schools;

- details of Health and Wellbeing Boards; and
- information about the impact of third sector funding cuts.

Housing Services



There were no discernible themes in respect of the requests assigned to Asset Management.

The following theme should be noted in respect of the requests assigned to Housing:

- three requests for budgetary and statistical information relating to people who are homeless or at risk of homelessness.

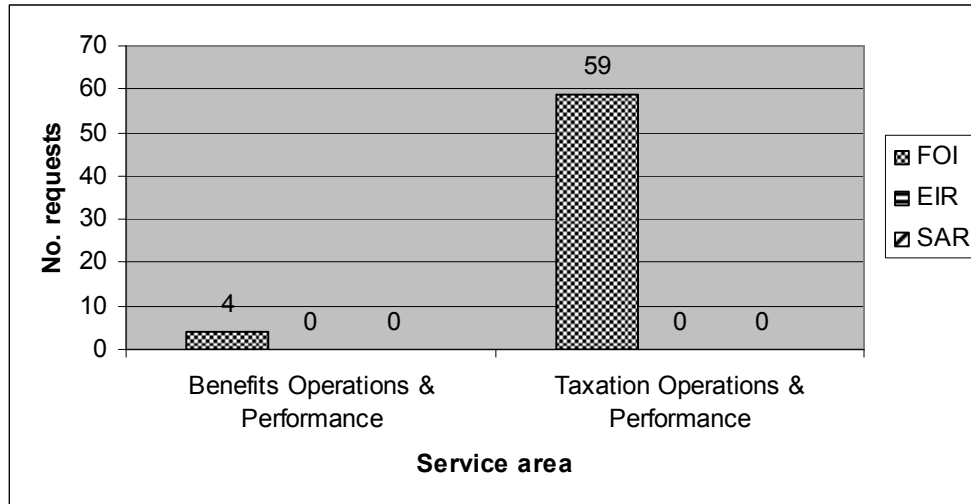
There were no discernible themes in respect of the requests assigned to Tenant Enforcement.

Recommendations

The section should consider publishing:

- the costs associated with providing services for people who are homeless or at risk of homelessness; and
- statistical information about homelessness rates in Darlington.

Revenues and Benefits



There were no discernible themes in respect of the requests assigned to Benefits Operations & Performance.

The following themes should be noted in respect of the requests assigned to Taxation Operations & Performance:

- 25 requests for details of commercial properties showing a business rates credit balance;
- 13 requests for details of empty properties ;
- eight requests relating to the rateable values of commercial properties;
- six requests for statistical information relating to non-payment of council tax and/or business rates; and
- four requests for details of commercial properties in receipt of rate relief.

Recommendations

The section should publish:

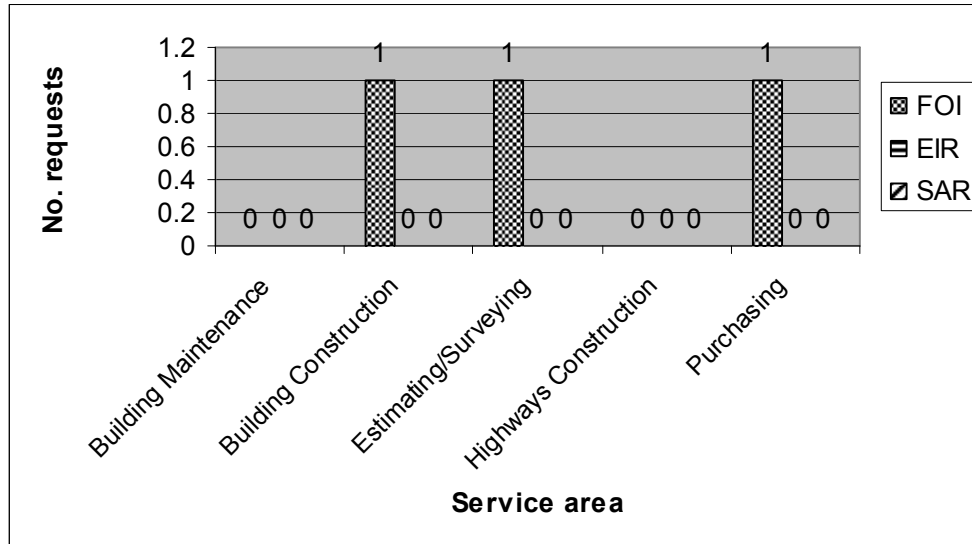
- details of commercial properties showing a business rates credit balance; and
- details of empty commercial properties.

The section should consider publishing:

- details of the rateable values of commercial properties;
- statistical information relating to the non-payment of council tax and/or business rates; and
- details of commercial properties in receipt of rate relief.

Services for Place

Building Services

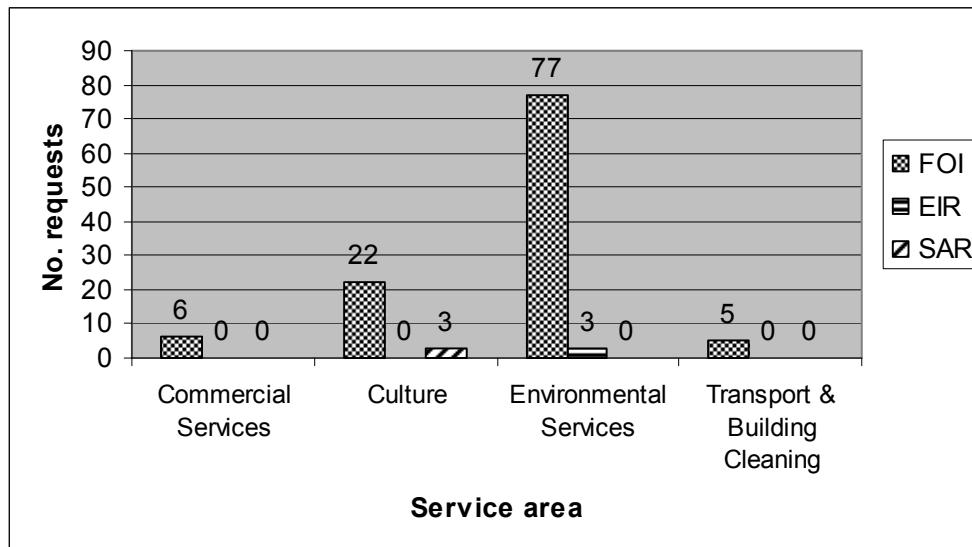


Given the low number of requests assigned to Building Services, there are no emerging themes.

Recommendations

There are no recommendations for this section.

Community Services



The following theme should be noted in respect of the requests assigned to Commercial Services:

- five requests for information about the school meals services provided by the Council.

The following themes should be noted in respect of the requests assigned to Culture:

- three requests for information about CCTV cameras and their associated costs; and
- three requests for statistical information about library membership.

The following themes should be noted in respect of the requests assigned to Environmental Services:

- 43 requests for information about contract funerals where the deceased has no next of kin;
- five requests for the costs/income associated with refuse and recycling;
- four requests for details of refuse collection contracts;
- four requests for statistical data about stray dogs;
- three requests for information about allotments; and
- three requests for statistical data about fly-tipping incidents.

The following theme should be noted in respect of the requests assigned to Transport & Building Cleaning:

- three requests for information relating to home-to-school transport.

Recommendations:

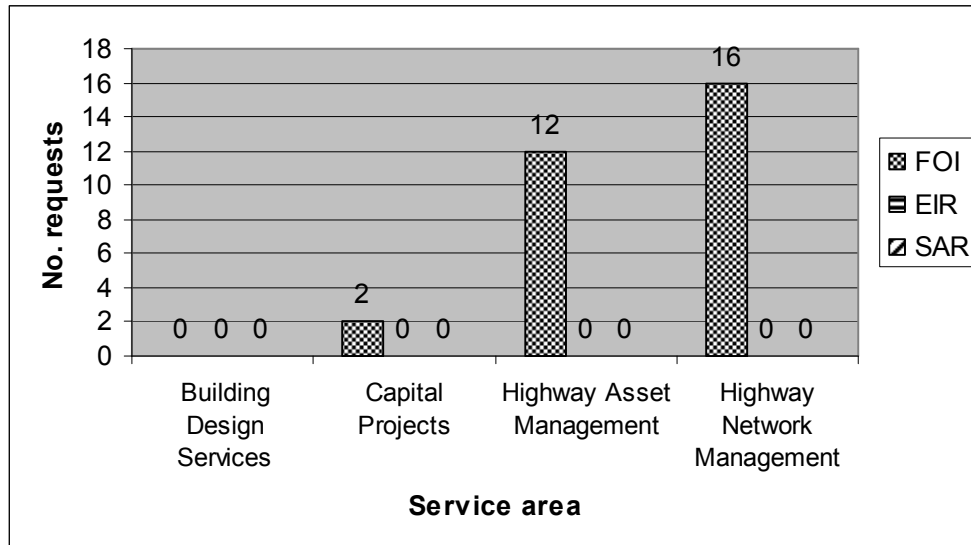
The section should publish:

- information about contract funerals where the deceased has no next of kin;

The section should consider publishing:

- information about the school meals services provided by the Council.
- details of refuse collection contracts;
- the costs/income associated with refuse and recycling;
- statistical data about stray dogs;
- information about CCTV cameras and their associated costs;
- statistical information about library membership;
- information about allotments;
- statistical data about fly-tipping incidents; and
- information relating to home-to-school transport.

Highways, Design & Projects



The following themes should be noted in respect of the requests assigned to Highway Asset Management:

- five requests for details of highways inspections and repairs; and
- three requests for statistical information about insurance claims resulting from carriageway defects.

The following theme should be noted in respect of the requests assigned to Highway Network Management:

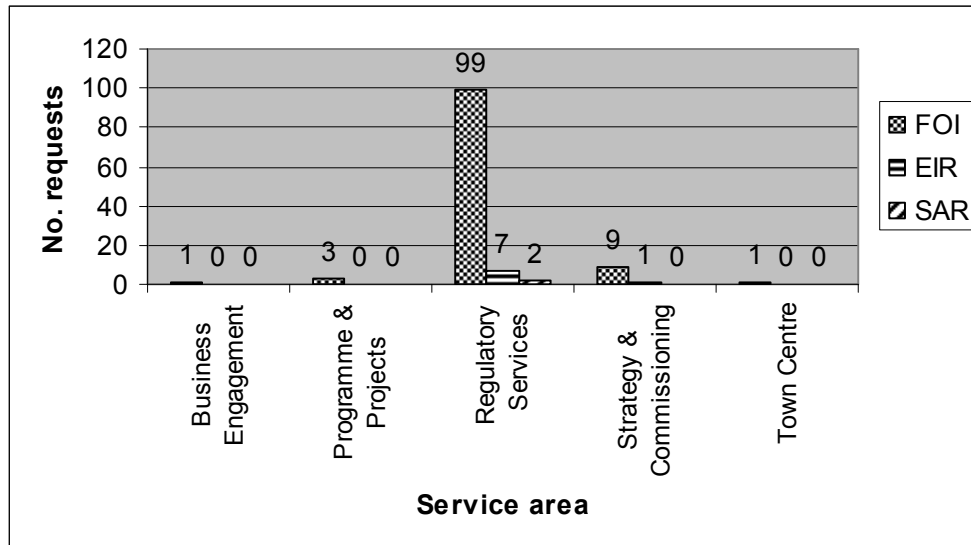
- three requests for information about road safety arrangements.

Recommendations

The section should consider publishing:

- details of highways inspections and repairs;
- statistical information about insurance claims resulting from carriageway defects; and
- information about road safety arrangements.

Policy & Regeneration



There were no discernible themes in respect of the requests assigned to Programme & Projects.

The following themes should be noted in respect of the requests assigned to Regulatory Services:

- 19 requests for statistical information relating to planning applications;
- 19 requests for statistical information about Parking Charge Notices (PCNs);
- seven requests for information relating to noise complaints;
- six requests for information about pest control;
- five requests for details of expenditure in relation to traveller sites;
- five requests for details of taxi licences;
- four requests for information about firework licences;
- four requests for details of reports made to Trading Standards;
- three requests for copies of food hygiene inspection reports;
- three requests for details of parking charges; and
- three requests for details of dangerous wild animal licences.

There were no discernible themes in respect of the requests assigned to Strategy & Commissioning.

Recommendations

The section should publish:

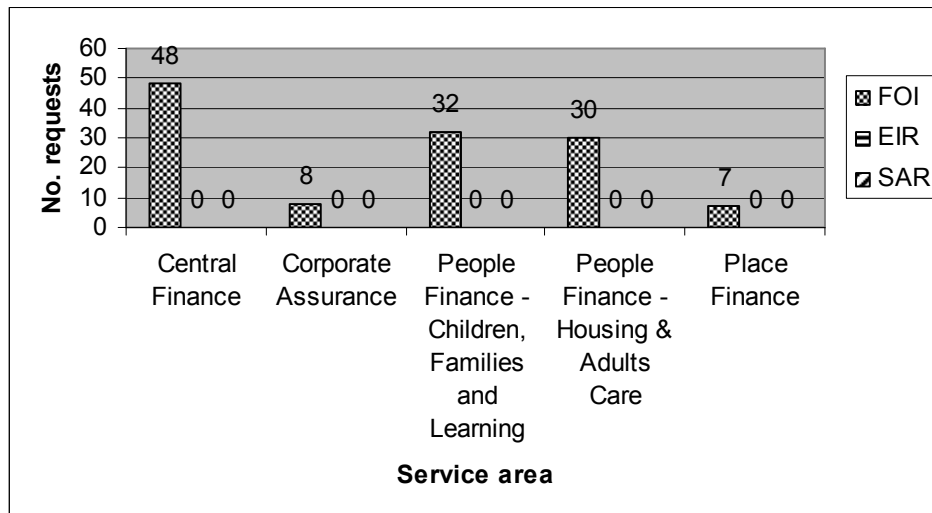
- statistical information relating to planning applications; and
- statistical information about Parking Charge Notices (PCNs).

The section should consider publishing:

- statistical data relating to noise complaints;
- information about pest control arrangements;
- details of expenditure in relation to traveller sites;
- statistical information about taxi licences;
- details of premises with firework licences;
- statistical information about reports made to Trading Standards;
- copies of food hygiene inspection reports;
- statistical information about parking charges; and
- details of dangerous wild animal licences.

Resources Group

Finance



The following themes should be noted in respect of the requests assigned to Central Finance:

- seven requests for information about the Council's budget;
- six requests for information about staff remuneration;
- four requests for details of service-specific budgets;
- four requests for details of expenditure relating to the use of private detectives; and
- three requests for details of expenditure relating to travel, subsistence and accommodation.

The following themes should be noted in respect of the requests assigned to Corporate Assurance:

- four requests for information regarding insurance claims made against the Council.

The following themes should be noted in respect of the requests assigned to People Finance – Children, Families & Learning:

- ten requests for information about service budgets;
- eight requests for information regarding insurance claims made against the Council (specifically Children, Families & Learning) and/or schools; and
- five requests for details of expenditure on temporary and agency staff employed by social care and/or schools.

The following themes should be noted in respect of the requests assigned to People Finance – Housing & Adults Care:

- six requests for information about Adult Social Care budgets;
- six requests for details of expenditure in Adult Social Care;
- five requests for charges for Adult Social Care services; and
- five requests for statistical information about Personalisation/Direct Payments.

The following themes should be noted in respect of the requests assigned to Place Finance:

- three requests for details of expenditure in Services for Place.

Recommendations

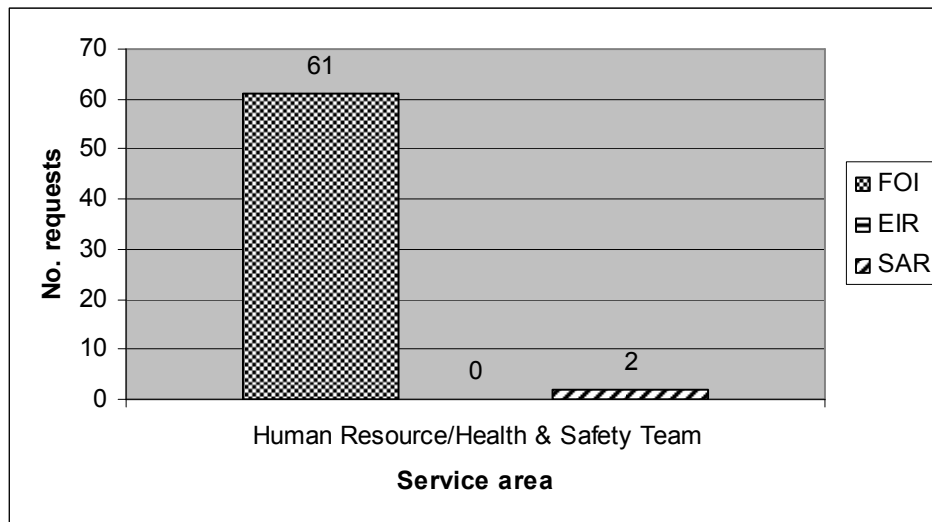
The section should publish:

- information about service budgets in Children, Families & Learning.

The section should consider publishing:

- statistical information regarding insurance claims made against the Council and/or schools (providing that individuals cannot be identified from the information);
- information about Adult Social Care budgets and expenditure;
- details of charges for Adult Social Care services;
- statistical information about Personalisation/Direct Payments.
- details of expenditure on temporary and agency staff employed by social care and/or schools;
- details of expenditure relating to the use of private detectives;
- details of expenditure relating to travel, subsistence and accommodation; and
- details of expenditure in Services for Place.

Human Resource Management



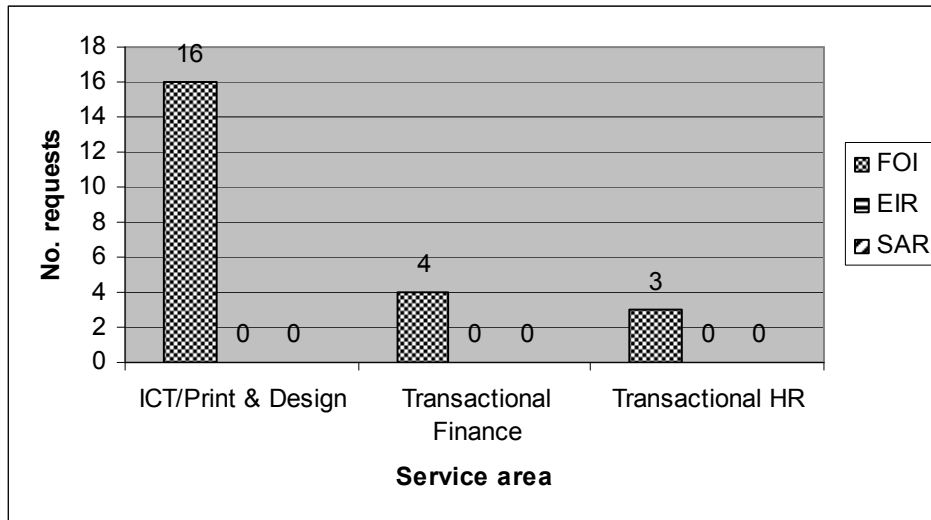
The following themes should be noted in respect of the requests assigned to Human Resource/Health & Safety Team:

- ten requests for statistical information about redundancies (voluntary and compulsory);
- eight requests about staff competency and dismissals;
- seven requests for details of service staffing levels;
- seven requests for details of staff remuneration;
- six requests for sickness absence statistics;
- four requests for details of temporary staffing levels;
- four requests about trade union facility time; and
- three requests for information about staff health and safety.

The section should continue to publish (or should consider publishing):

- statistical information about redundancies;
- statistical information about staff competency and dismissals (providing that individuals cannot be identified from the information);
- details of service staffing and temporary/agency staffing levels;
- details of staff remuneration;
- sickness absence statistics;
- information about trade union facility time; and
- statistical information about staff health and safety.

ICT/Design & Print



The following themes should be noted in respect of the requests assigned to ICT/Print & Design:

- eight requests for details of ICT-related contracts; and
- three requests for statistical information about information security incidents.

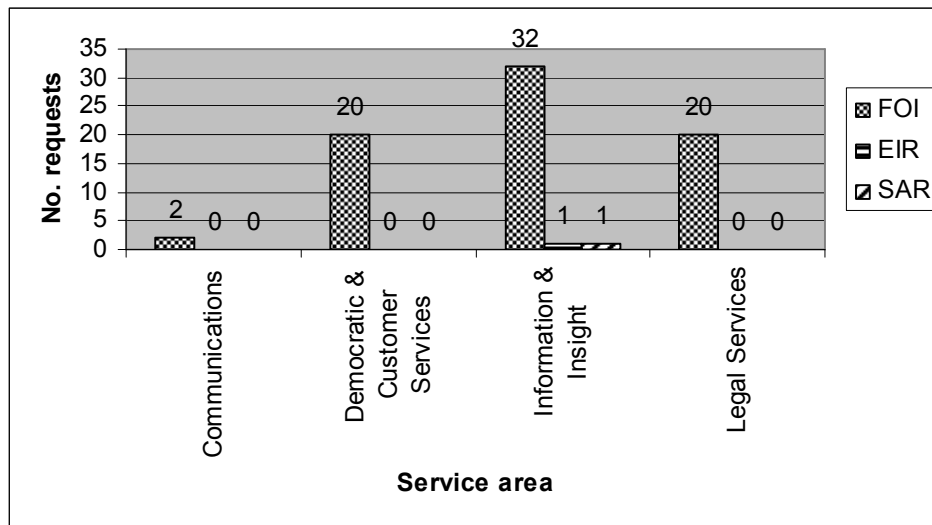
There were no discernible themes in respect of the requests assigned to Transactional Finance or Transactional HR.

Recommendations

The section should consider publishing:

- details of ICT-related contracts; and
- statistical information about information security incidents.

Resources



There were no discernible themes in respect of the requests assigned to Democratic & Customer Services.

There were no discernible themes in respect of the requests for information held by Information & Insight.

There were 14 requests for staff structure charts and/or contact details answered directly by the CIG Team (Information and Insight) as this information was published on the Council's website.

The following themes should be noted in respect of the requests assigned to Legal Services:

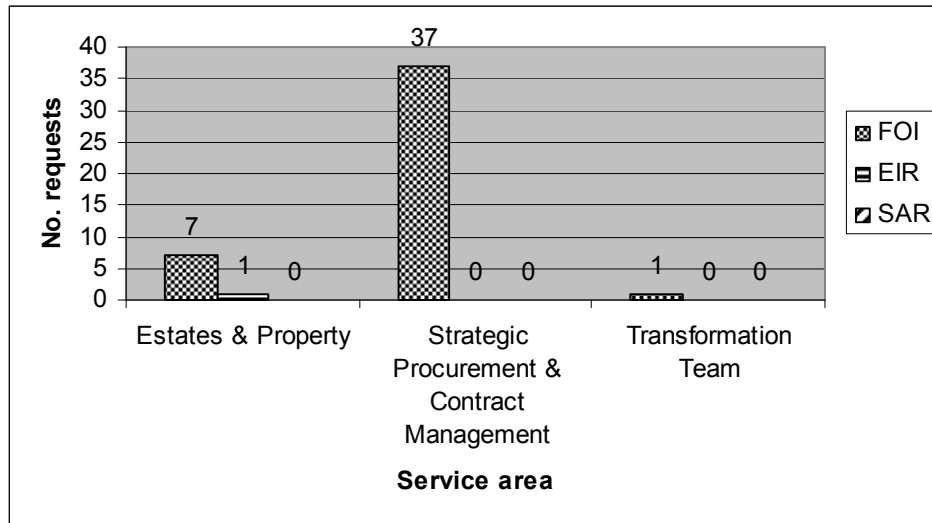
- eight requests for information relating to local land searches; and
- three requests for statistical information about investigations carried out under the Regulation of Investigatory Powers Act (RIPA).

Recommendations

The section should consider publishing:

- information relating to local land searches; and
- statistical information about investigations carried out under the Regulation of Investigatory Powers Act (RIPA).

Transformation



There were no discernible themes in respect of the requests assigned to Estates & Property.

The following themes should be noted in respect of the requests assigned to Strategic Procurement & Contract Management:

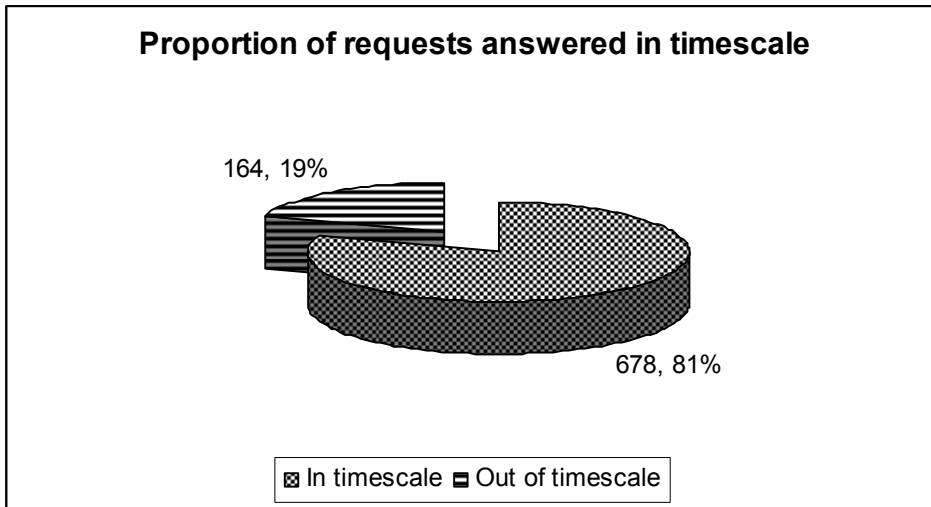
- 19 requests for information about contracts between the Council and commercial organisations; and
- four request for details of expenditure on procurement cards.

Recommendations

The section should consider publishing:

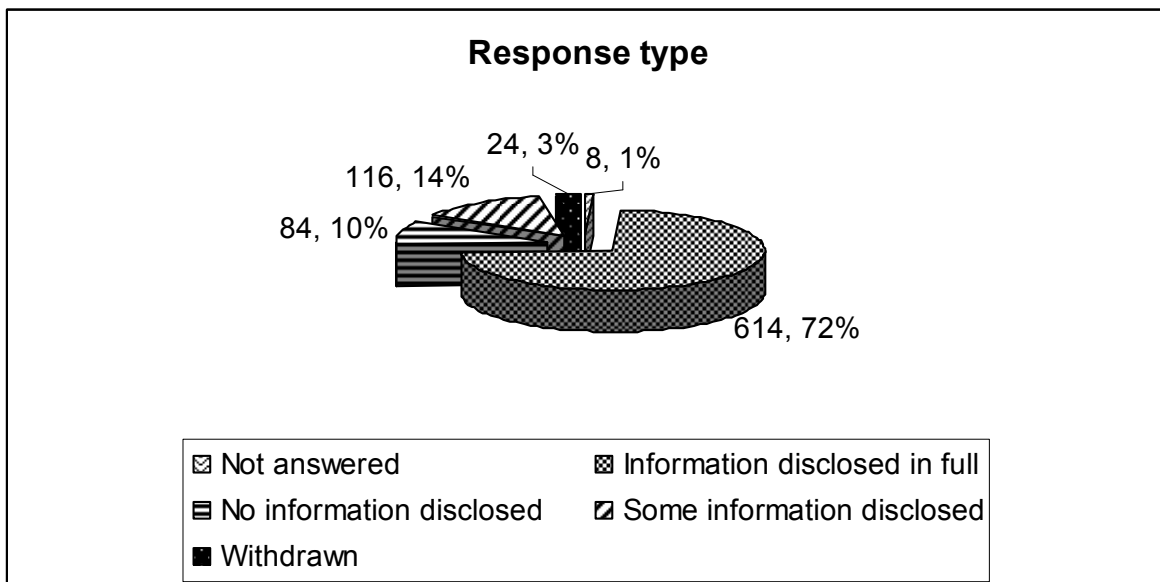
- information about contracts between the Council and commercial organisations (if not already included in the Contracts Register); and
- details of expenditure on procurement cards – this should be published alongside the over £500 spend maintained by Central Finance.

Proportion of requests answered in timescale

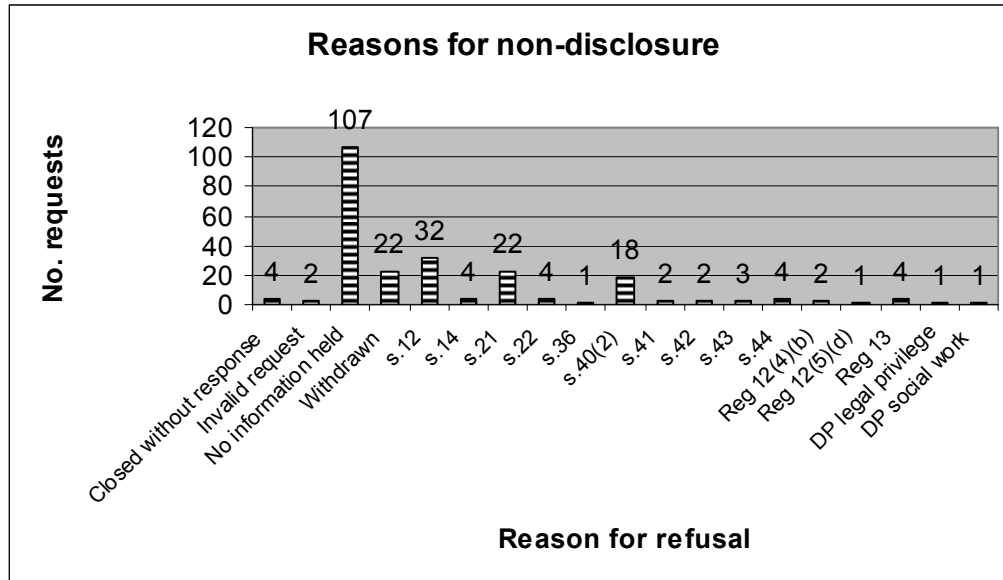


Although this chart represents the number of requests for information responded to in or out of timescale, it does not take into account instances where an extension was agreed with the requestor. With regards to FOI and EIR requests, it also does not take into account instances where the requestor was contacted for clarification of their request; in such instances, the Council is entitled to ‘restart’ the 20 working day timescale from the working day following the date of receipt of the necessary clarification.

Type of response



Exemptions/exceptions applied



As stated above, requests can be refused for a number of reasons. Please note that the figures provided above will not tally with the figures provided in the previous graph; this is due to the fact that a single request can be refused for more than one reason, e.g. two exemptions might apply to the information or part of the information may be exempt and part of it may not be held.

In 2011/12, the most common reason for refusing a request was that the information requested (or part of the information) was not held by the Council (107 requests).

32 requests were refused/partially refused under section 12 of the FOIA; this is where the estimated cost of providing the information requested would exceed the 'appropriate limit' of £450 (equivalent to 18 hours of officer time which, for the purpose of the estimate, the legislation states should be valued at £25 per hour). In order to refuse a request on this basis the Council must be confident that the aggregated cost of determining whether the information is held, locating and retrieving it and then extracting the relevant elements would be in excess of £450. In addition, two requests for environmental information were refused under Regulation 12(4)(b) of the EIR. Regulation 12(4)(b) applies when a request is deemed to be 'manifestly unreasonable'.

22 requests were refused/partially refused under section 21 of the FOIA compared to 17 in 2010/11. This is an exemption for information that is already accessible to the applicant by some other means. It usually applies to information that is already published on the Council's website, hence the recommendations contained within this report.

22 requests were withdrawn, either by the applicant retracting the request or the applicant failing to provide the Council with the clarification needed in order to process the request.

18 requests were refused/partially refused under section 40(2) of the FOIA and four requests were refused/partially refused under Regulation 13 of the EIR; section 40(2) and Regulation 13 are, respectively, an exemption and an exception for personal data about third party individuals.

Four requests were refused under section 14 of the FOIA; this is where a request is deemed to be repeated and/or vexatious. For a request to be 'repeated' it has to be identical or substantially similar to a previous request, be made by the same person who submitted the previous request and be submitted without a reasonable interval having elapsed since the previous request. Vexatious requests are those which cause unjustified distress, disruption or irritation; the threshold for designating a request vexatious is high and the authority must take a number of criteria into consideration before reaching the decision to apply section 14.

Four requests were refused/partially refused under section 22 of the FOIA; this is applicable in cases where the Council holds information with a view to its publication at some point in the future.

Four requests were refused/partially refused under section 44 of the FOIA. Section 44 applies where there is other legislation that explicitly prohibits disclosure of information.

Three requests were refused/partially refused under section 43 of the FOIA. This exemption applies to commercially sensitive information.

Two requests were refused/partially refused under section 41 of the FOIA; this exemption applies to information that was provided to the Council in confidence, where disclosure would be likely to result in legal action being taken against the Council for breach of confidence. Regulation 12(5)(d) works in a similar way to section 41 of the FOIA. Regulation 12(5)(d) applies to information that, if disclosed, could adversely affect the confidentiality of any proceedings in which the Council may be involved. Two requests were refused under this regulation.

Two requests were refused/partially refused under section 42 of the FOIA. Section 42 applies to information protected by legal professional privilege (i.e. communications between a legal adviser and their client or information prepared for the purpose of obtaining legal advice).

Two requests were recorded as invalid as the applicant had failed to provide their name (this is a requirement in accordance with section 8 of the FOIA) and did not respond when the CIG Team requested this information.

One request was refused/partially refused under section 36 of the FOIA. Section 36 applies to information that, if disclosed, would prejudice the effective conduct of public affairs.

Two subject access requests were refused/partially refused under exemptions contained within the Data Protection Act 1998. The first was refused under the social work exemption; this exemption applies where disclosure of information would prejudice the ability of the Council to carry out its social work function. The second was refused under the legal professional privilege exemption.

The Council failed to provide a response to four requests. The requests were closed due to the time that had elapsed without the requestor contacting the Council.

Appeals to the Information Commissioner's Office

The Information Commissioner's Office (ICO) is the regulator with responsibility for enforcing compliance with the FOIA, EIR and Data Protection Act 1998 (including the SAR provisions).

The Council did not have any appeals determined regarding its decisions in relation to FOI, EIR or SARs in 2011/12.