



Freedom of Information, Environmental Information and Subject Access Request Report

1 April 2012 – 31 March 2013

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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 2012 and 31 March 2013. 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.

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 now published data following previous annual reports. 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).

The recommendations contained in this report fall into two categories; information which should be published and information which the Council should consider publishing. Where information is requested 10 times or more it is recommended that the information should be published. Where information is requested five times or more it is recommended that consideration should be given to publishing the information.

As these are recommendations 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, to 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

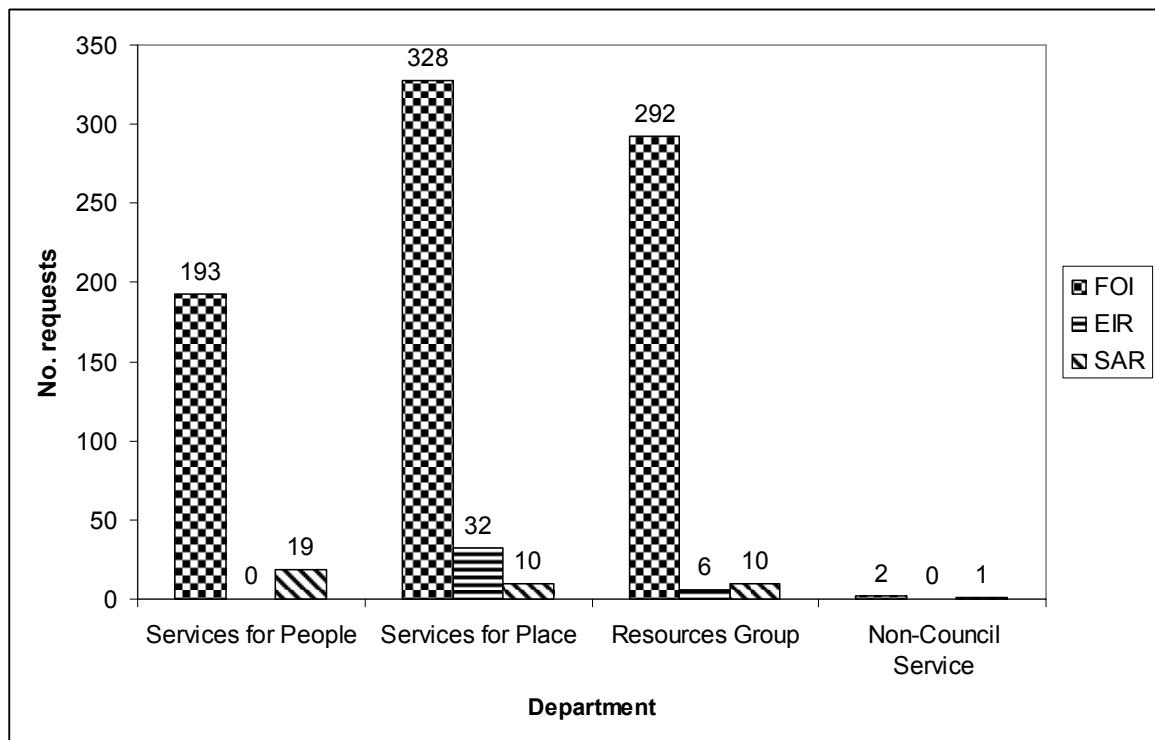
FOIA and EIR requests are processed in a similar way. Requests are sent to the CIG Team, which reviews them and, if valid, logs them onto the electronic request management system. An acknowledgement letter or e-mail is sent to the applicant and then the request is assigned to a manager/officer in the 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 scanned copy of any documents that form the personal data of the applicant; this is often an officer in Children's or Adult Social Care. The scanned documents are then passed to the CIG Team, which reads through them and uses an electronic redaction tool to black out or remove any third party data or irrelevant information. If necessary, the documents are reviewed by Legal Services before being disclosed to the applicant. A 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 1 April 2012, the Council introduced revised policies, procedures and practice guidance on the handling of requests for information. These were refreshed in April 2013.

Overview of information requests

Between 1 April 2012 and 31 March 2013 the Council received 893 requests for information, 815 of which were dealt with under the Freedom of Information Act 2000 (FOI), 38 under the Environmental Information Regulations 2004 (EIR) and 40 under the subject access provisions of the Data Protection Act 1998 (SAR). This represents an increase of 47 requests when compared with last year, when the Council received 846 requests for information (811 FOI requests, 13 EIR requests and 22 SARs).



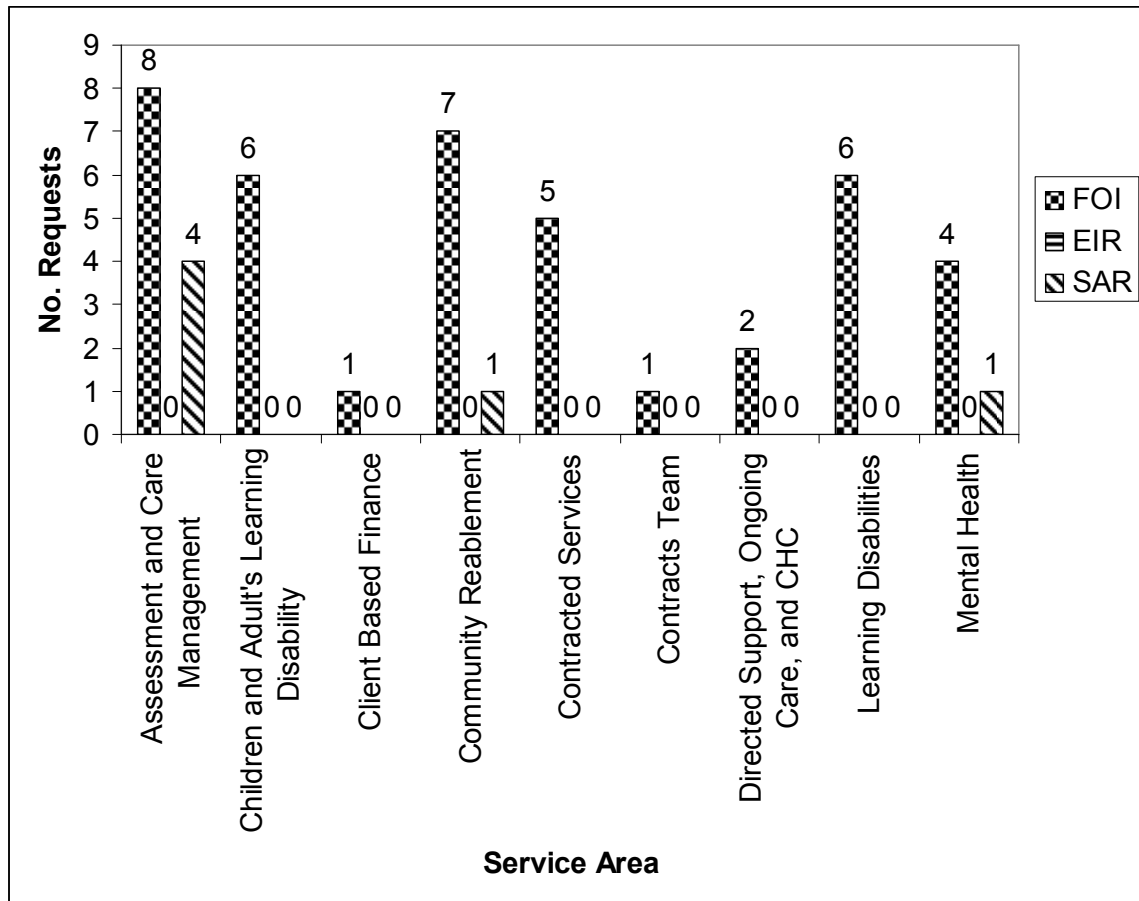
In terms of the overall volume of requests, Services for Place received the most requests (370), followed by Resources Group (308) and Services for People (212). There were also three requests for information held by non-Council services (one SAR and two FOI requests). In response to the SAR for non-Council information we supported the requestor in redirecting their request to the appropriate organisation. One FOI request for non-Council information was redirected to the appropriate organisation and the other, which concerned a jointly commissioned service for which the NHS were the lead agency, was partially responded to as we were able to provide information relating to budgets; the remainder of the request was refused as 'information not held'.

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



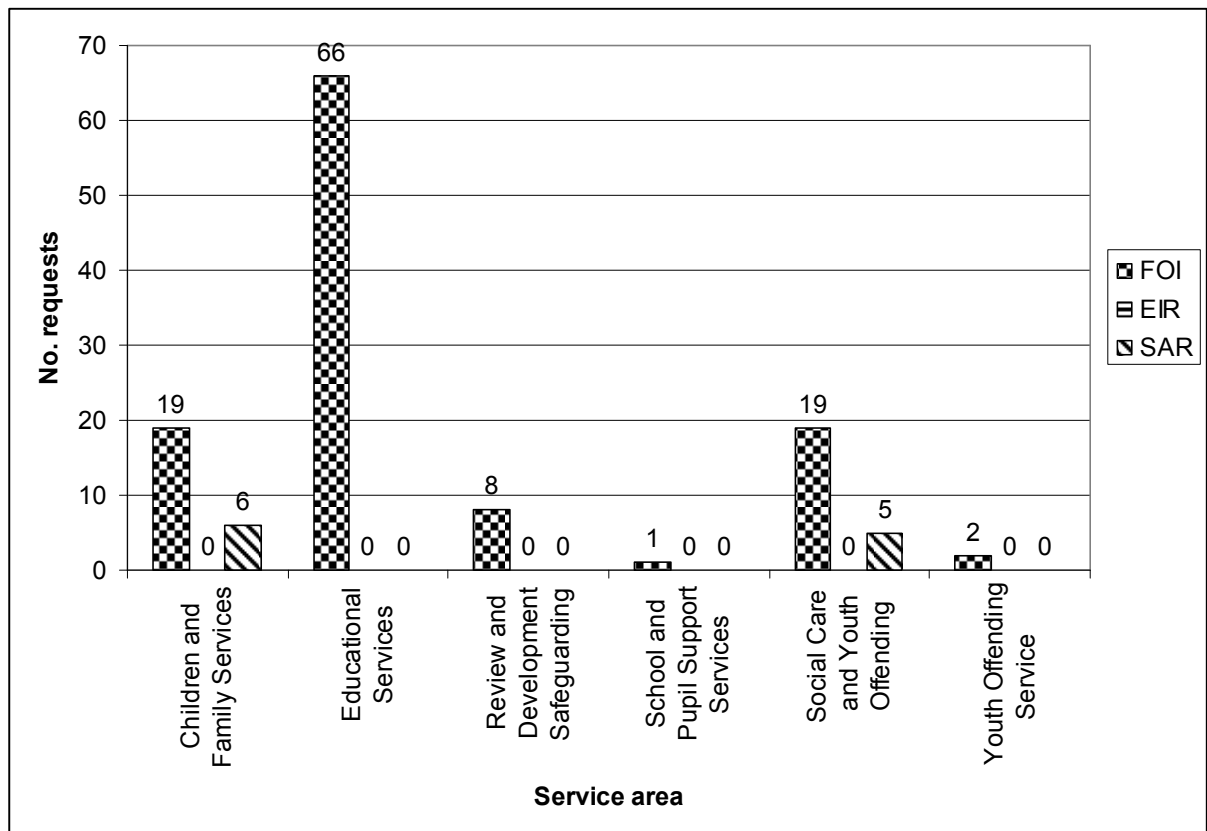
While there were no discernable themes in relation to particular service areas Adult Social Care received a number of requests relating to the tender process and the cost associated with the provision of services under contract.

As the Council now provides details of all contracts in a Contracts Register, available via our website, it is likely that in future we will be able to refuse requests for contract details under section 21 of the Freedom of Information Act on the basis the information is already accessible to the applicant by some other means.

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 Educational Services:

- four requests regarding the Troubled Families Scheme;
- eight requests regarding special education needs provision; and
- six requests regarding school admissions.

The following theme should be noted in respect of the requests assigned to Review and Development Safeguarding; seven requests were received for statistical information about safeguarding referrals.

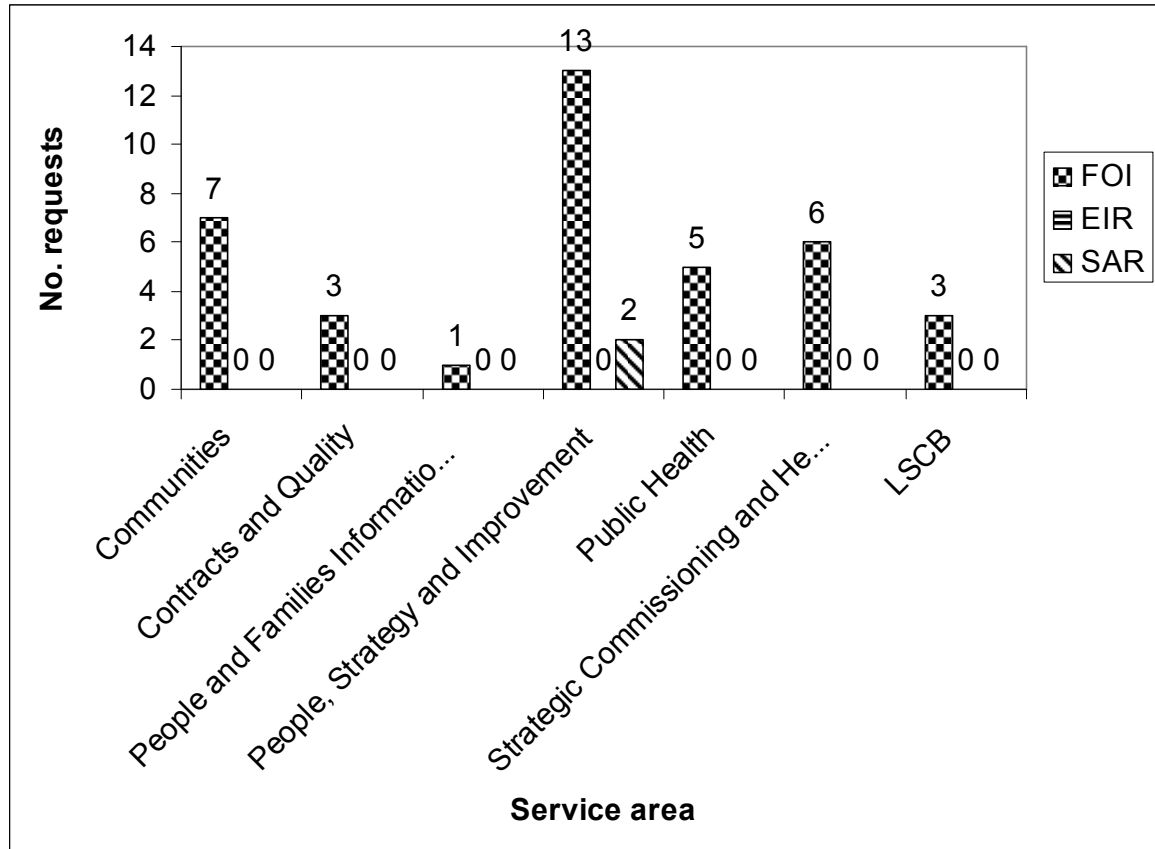
The following theme should be noted in respect of the requests assigned to Social Care and Youth Offending; three requests were received regarding fostering.

Recommendations:

Children, Families and Learning should consider publishing:

- statistical information about special education needs provision;
- statistical data about school admissions; and
- statistics relating to safeguarding referrals (providing that individual children, young people and adults cannot be identified from the data).

Development and Commissioning



Three requests regarding Health Watch were received, two for Communities and one for Public Health.

While there were no other discernable themes in relation to particular service areas Development and Commissioning received a number of requests relating to the provision of services under contract.

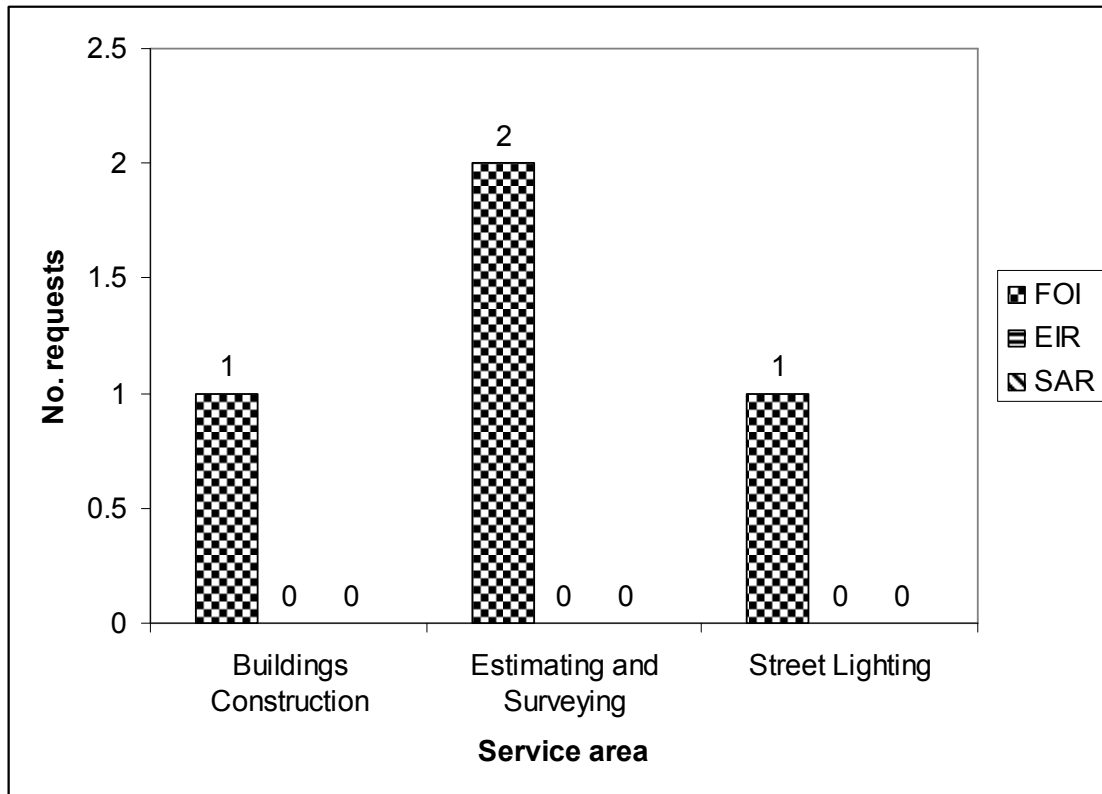
As the Council now provides details of all contracts in a Contracts Register, available via our website, it is likely that in future we will be able to refuse requests for contact details under section 21 of the Freedom of Information Act on the basis the information is already accessible to the applicant by some other means.

Recommendations

There are no recommendations for this section.

Services for Place

Building Services

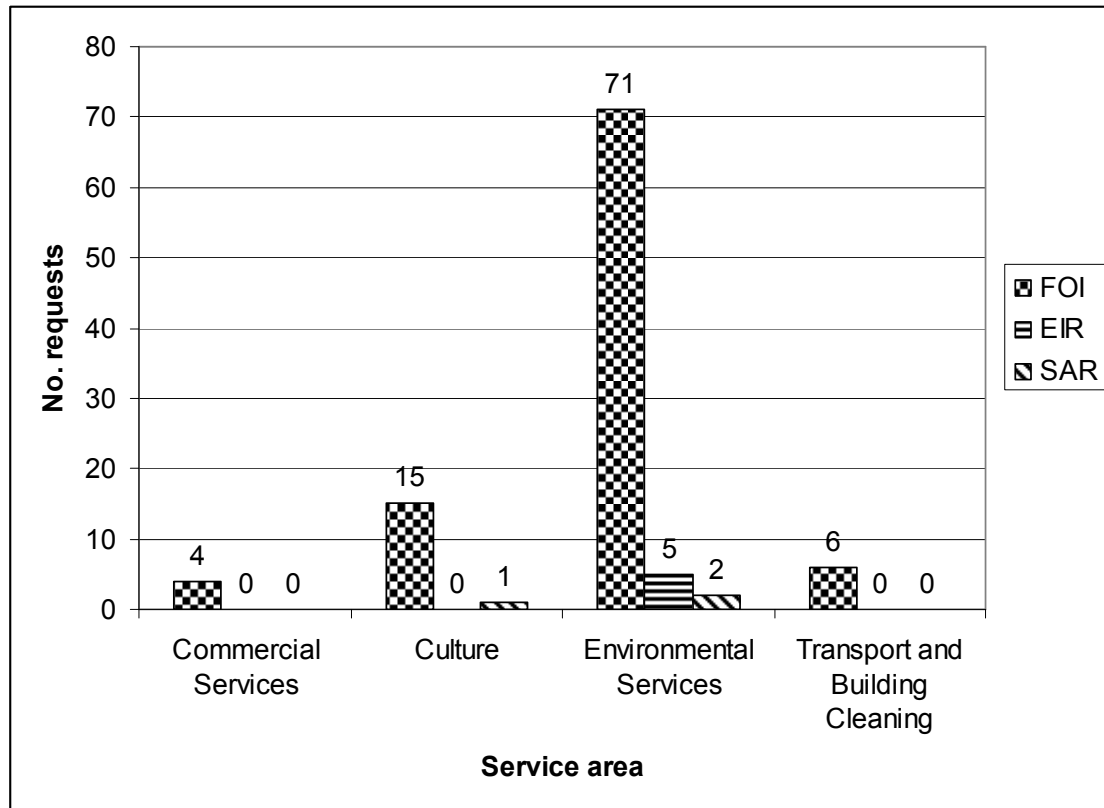


Given the low number of requests assigned to Building Services, there are no emerging themes.

Recommendations

There are no recommendations for this section.

Community Services



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

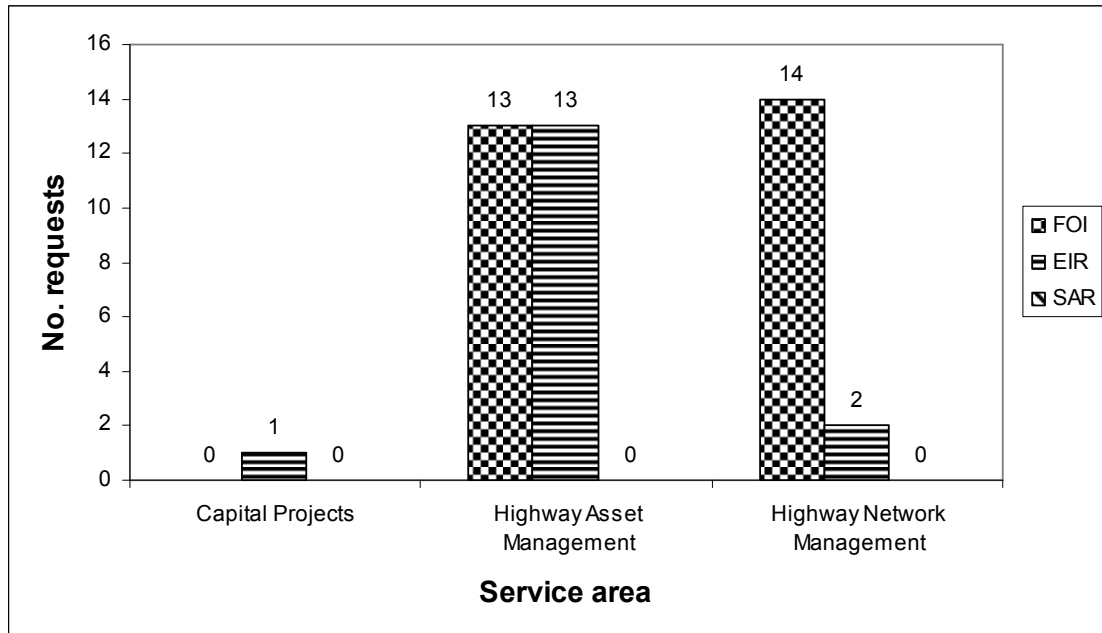
- 41 requests were received for information about public health funerals; and
- Four requests were received in relation to wheeled bins.

The following theme should be noted in respect of the requests assigned to Transport & Building Cleaning; four requests were received in relation to Council fleet vehicles.

Recommendations

Community Services should publish information about public health funerals.

Highways, Design & Projects



The following themes should be noted in respect of the requests for Highways Asset Management:

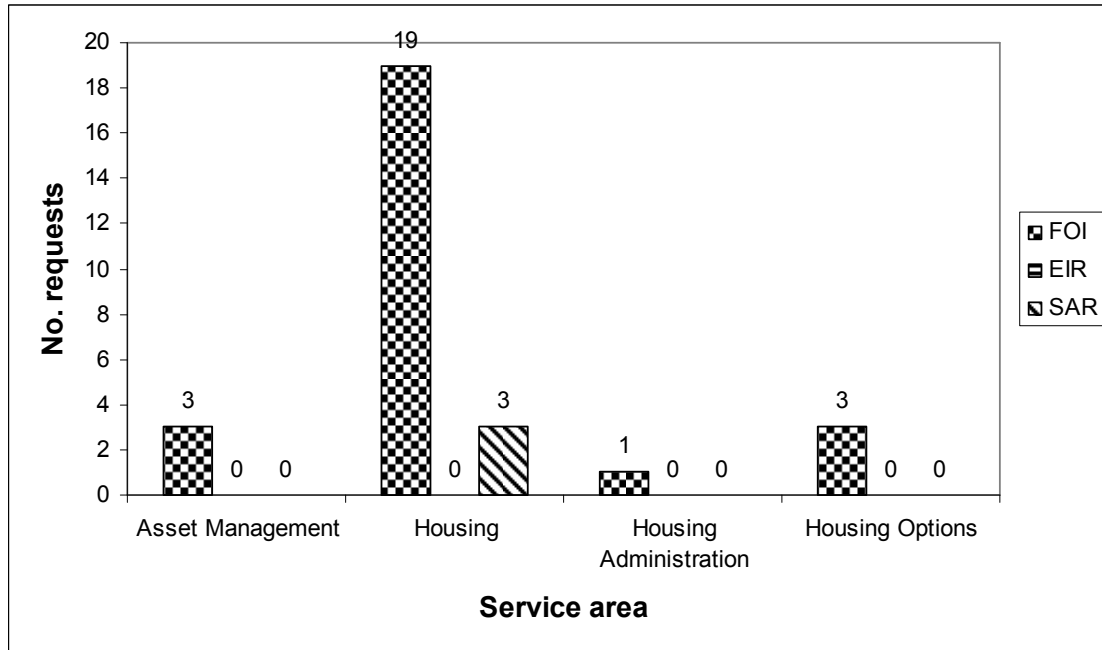
- three requests were received regarding spend on road maintenance;
- four requests were received relating to accident statistics and compensation claims;
- seven requests were received for inspection reports; and
- four requests were received which related to the highway boundary.

The following theme should be noted in respect of the requests assigned to Highway Network Management; three requests were received for information about road safety arrangements.

Recommendations

Highways Asset Management should consider publishing details of inspection reports.

Housing Services

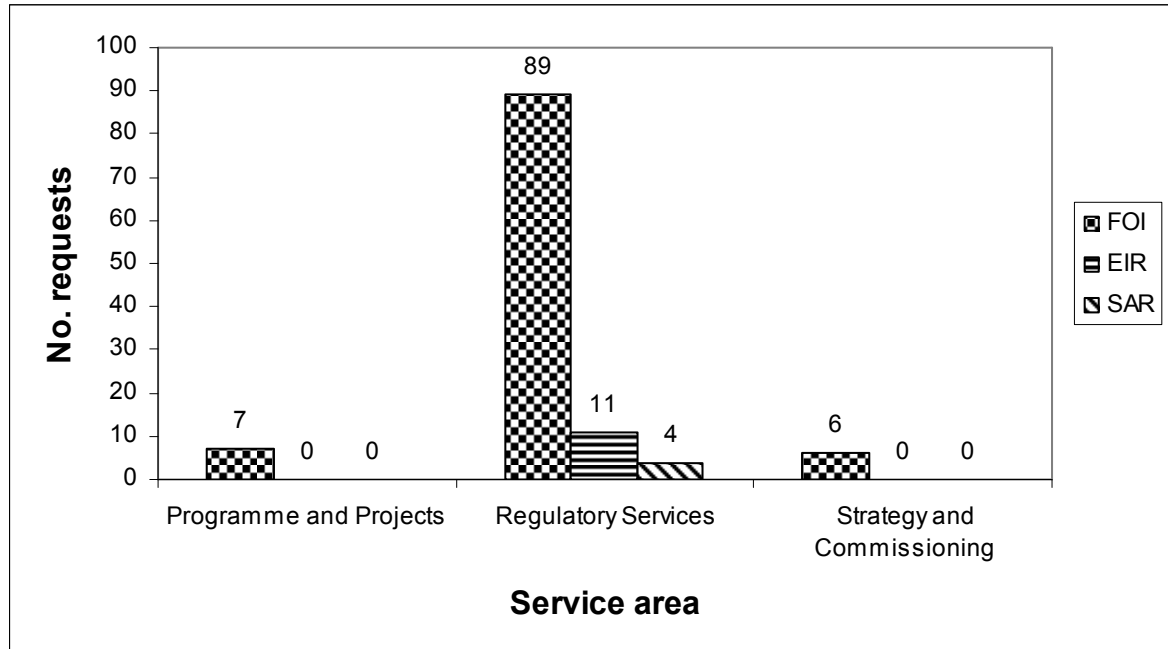


The following theme should be noted in respect of the requests assigned to Housing; three requests were received for waiting lists to be housed in a Council property.

Recommendations

There are no recommendations for this section.

Policy & Regeneration



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

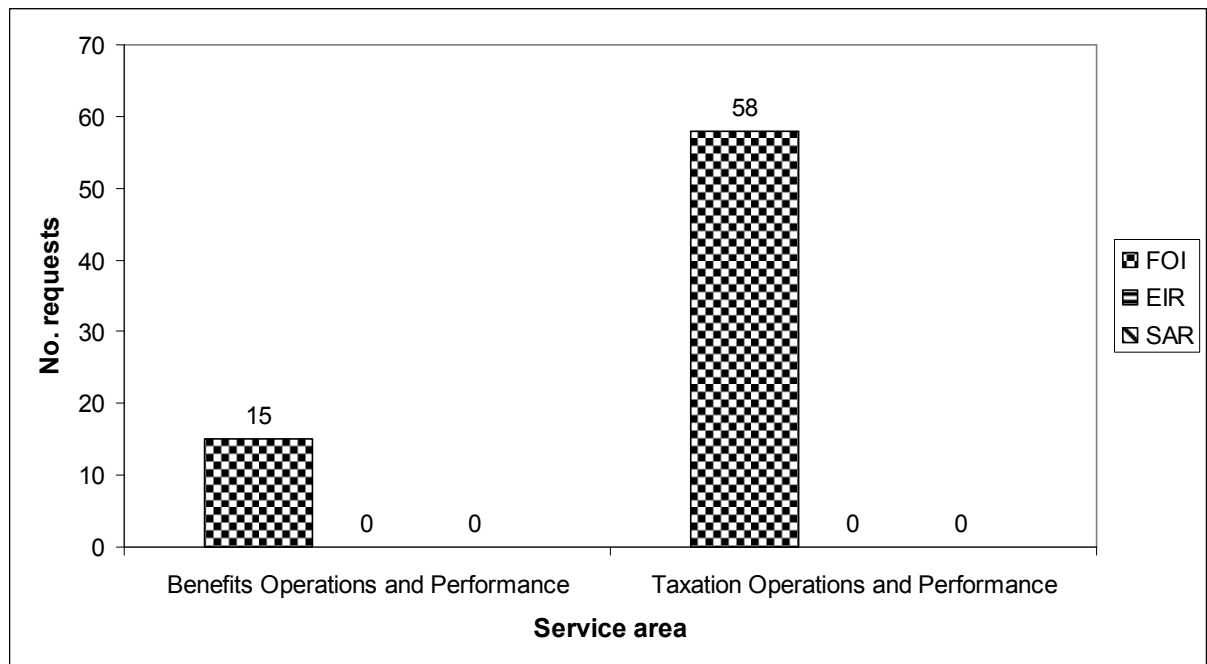
- five requests were received in relation to CCTV cameras;
- four requests were received in relation to Section 106 agreements;
- three requests were received which related to empty and derelict properties;
- four requests were received which related to taxis and hackney carriages licenses; and
- twelve requests were received for number of Penalty Charge Notices (PCNs) issued and income generated.

Recommendations

Policy and Regeneration should publish statistical information about PCNs.

Policy and Regeneration should consider publishing information regarding the use of CCTV cameras.

Revenues and Benefits



The following themes should be noted in respect of Benefits Operations & Performance.

- five requests were received which related to the Spare Room Subsidy (Bedroom Tax); and
- five requests were received which related to Council Tax benefit reform.

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

- 30 requests were received which related to business rates (14 of which related to accounts in credit and five of which related to rateable values); and
- Five requests were received for details of empty properties.

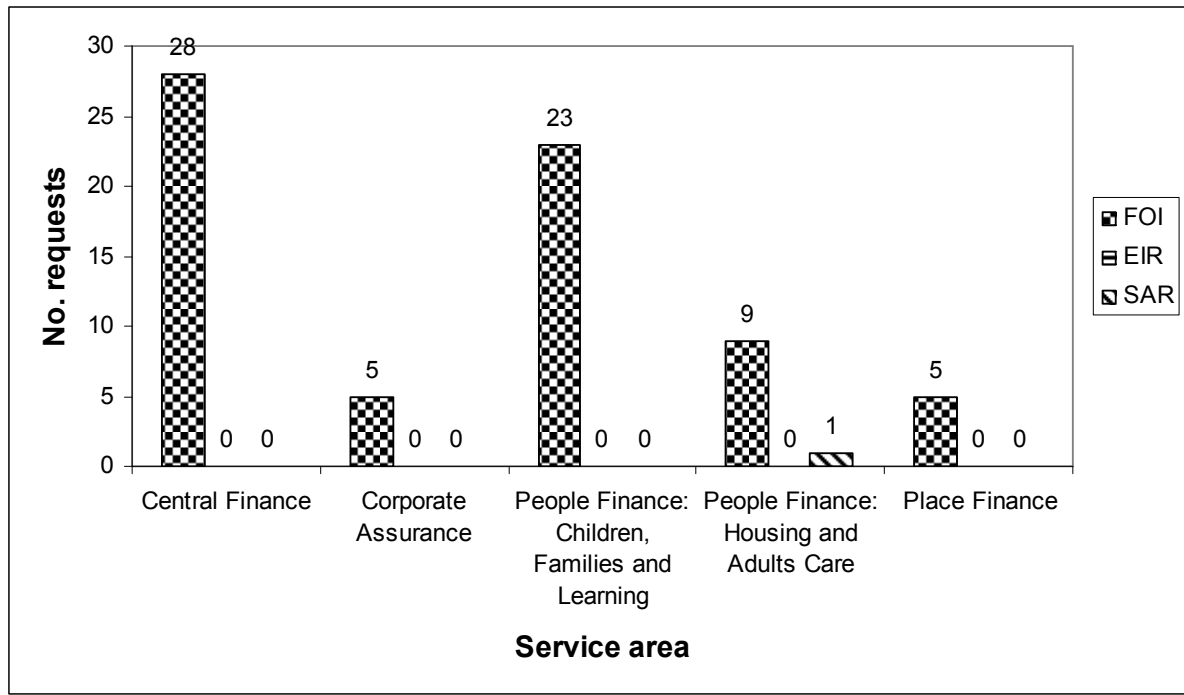
Recommendations

- Benefits Operations & Performance should consider publishing information relating to the Spare Room Subsidy;
- Benefits Operations & Performance should consider publishing information relating to Council Tax benefit reform;
- Revenues and Benefits should consider publishing details of rateable values; and
- Revenues and Benefits should consider publishing details of empty commercial properties.

N.B. While it was recommended in the 2011/12 that Revenues and Benefits should publish details of commercial properties showing a business rates credit balance it was decided that we would not publish this information proactively as it is out of date the day after it is published.

Resources Group

Finance

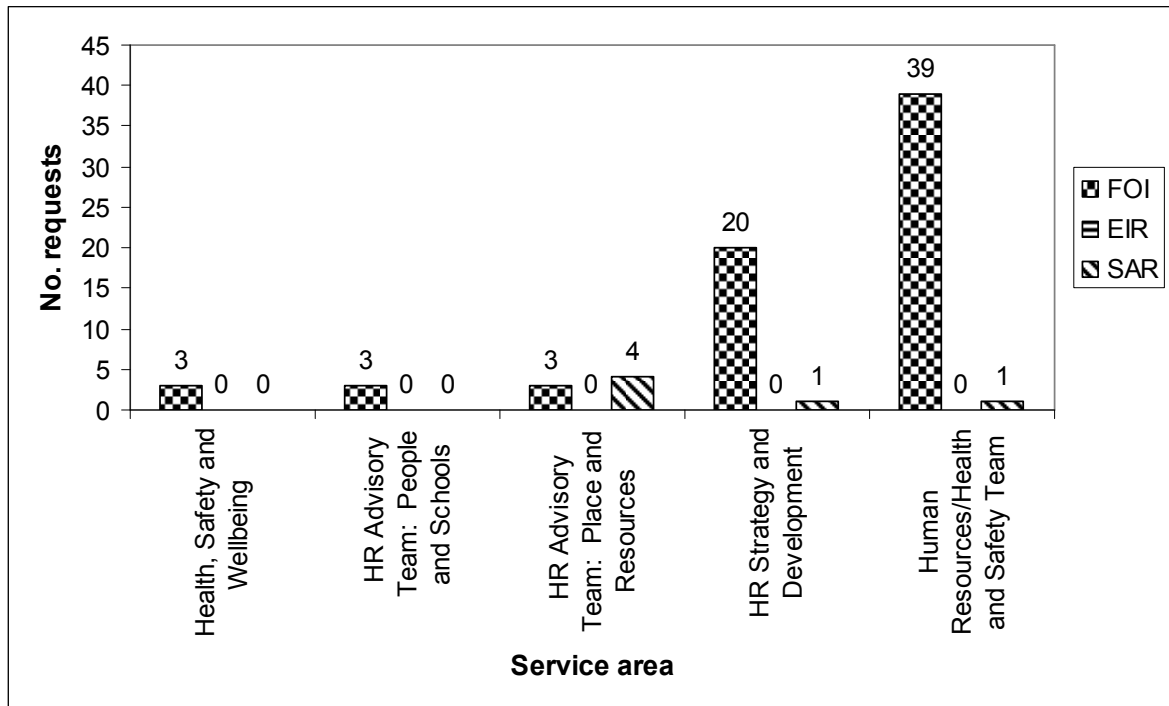


There were no discernible themes in respect of the requests assigned to Finance.

Recommendations

There are no recommendations for this section.

Human Resource Management



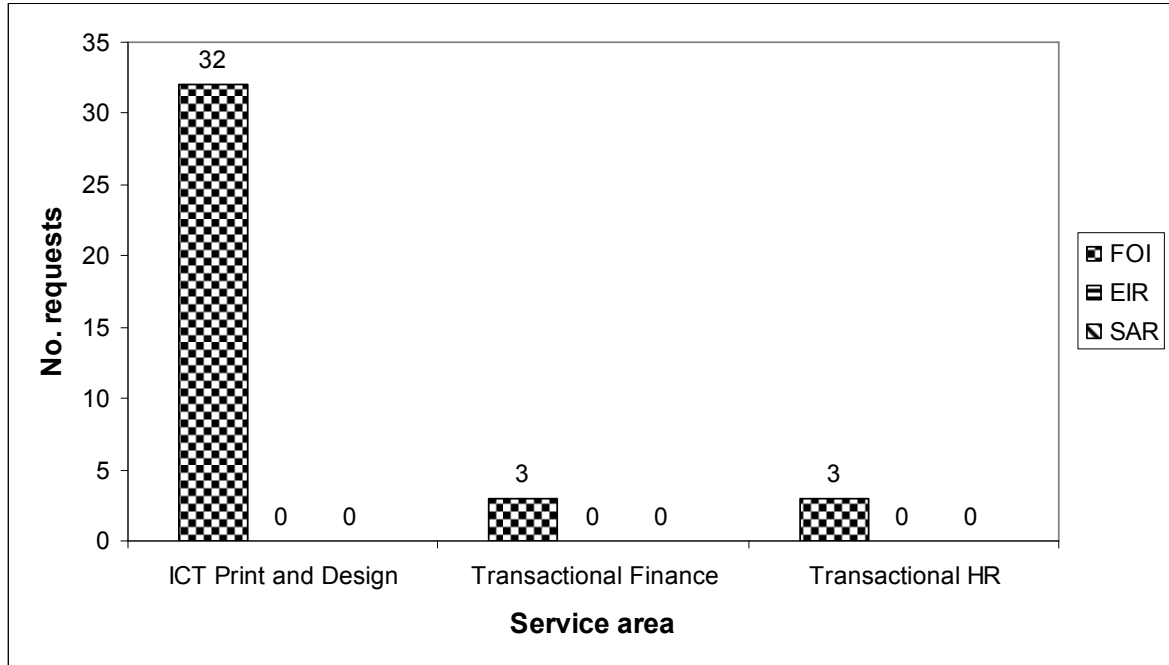
The following themes should be noted in respect of the requests assigned to Human Resource/Health & Safety Team:

- three requests were received regarding injuries to refuse collectors;
- three requests were received for employee contact details; and
- six requests were received regarding teaching (including staffing levels, use of teaching assistants, dismissals and pensions hence there being no recommendation in relation to this theme).

Recommendations

There are no recommendations for this section.

ICT/Design & Print



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

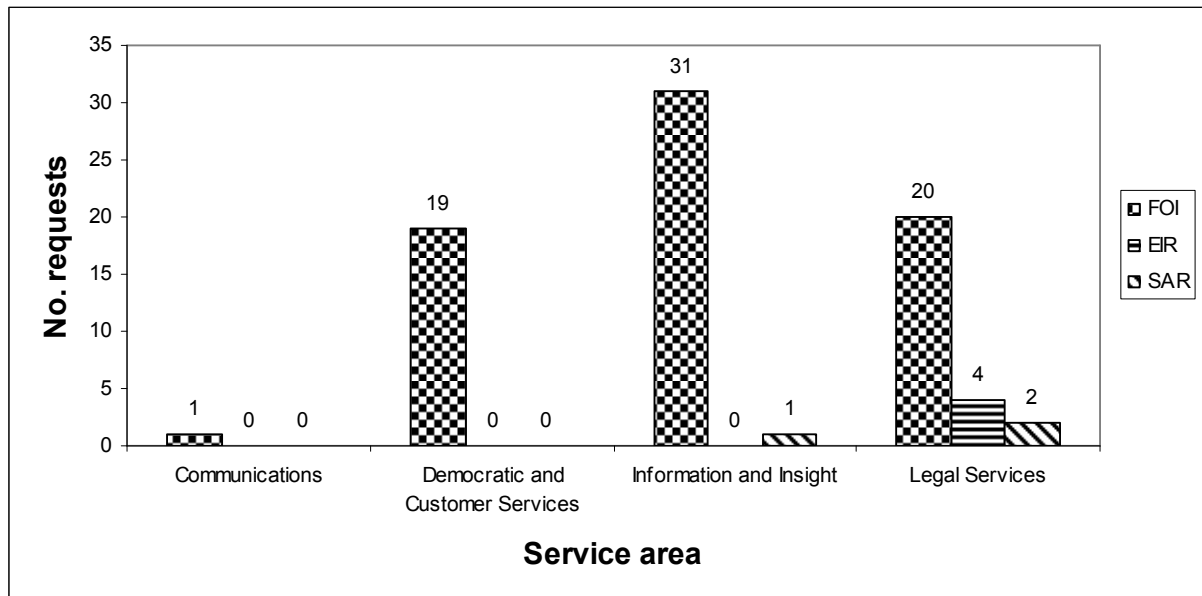
- ten requests were received for details of ICT-related contracts;
- three requests were received relating to telephone systems; and
- three requests were received in relation to the use of tablets and smart phones.

As the Council now provides details of all contracts in a Contracts Register, available via our website, it is likely that in future we will be able to refuse requests for contact details under section 21 of the Freedom of Information Act on the basis the information is already accessible to the applicant by some other means.

Recommendations

There are no recommendations for this section.

Resources



The following themes should be noted in respect of the requests assigned to Information and Insight; six requests were received for information about public health funerals.

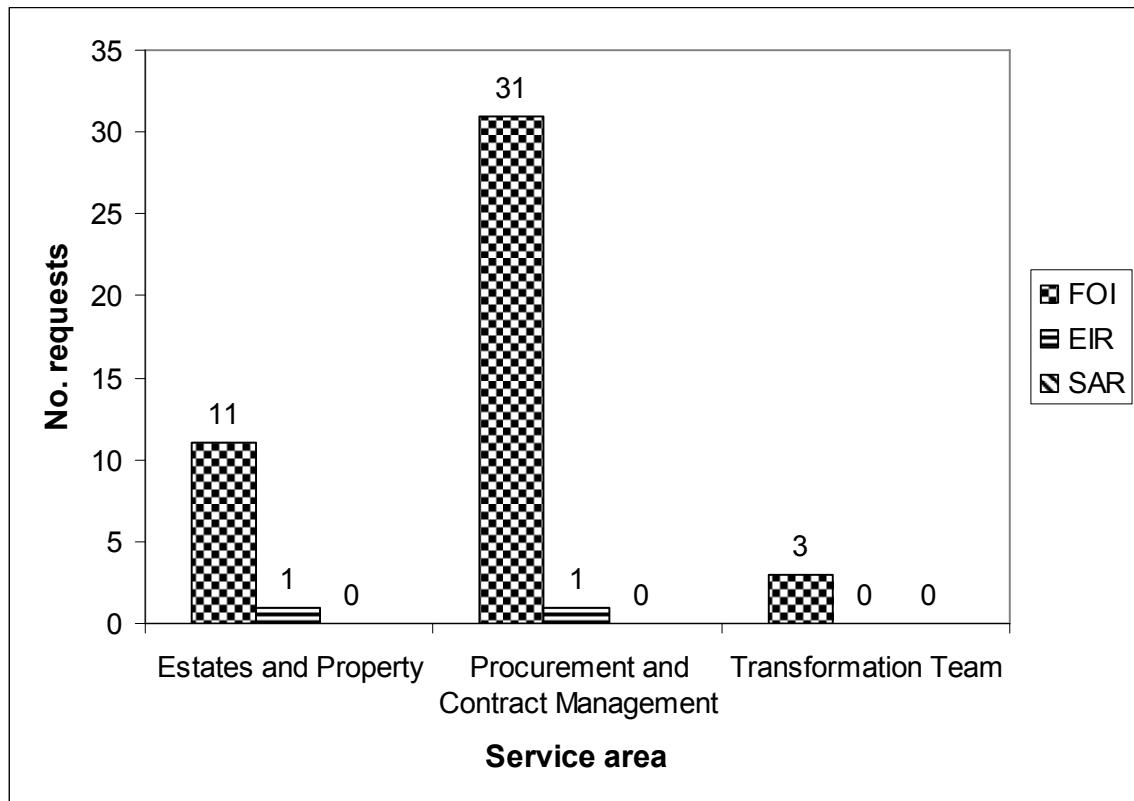
This was because the Complaints and Information Governance Team held the information having responded to other FOI requests. It has already been recommended in this report that Community Services should publish information about public health funerals.

The following themes should be noted in respect of the requests assigned to Legal Services; four requests related to Land Charges.

Recommendations

There are no recommendations for this section.

Transformation



The following themes should be noted in respect of the requests assigned to Estates and Property; three requests relating to energy certificates.

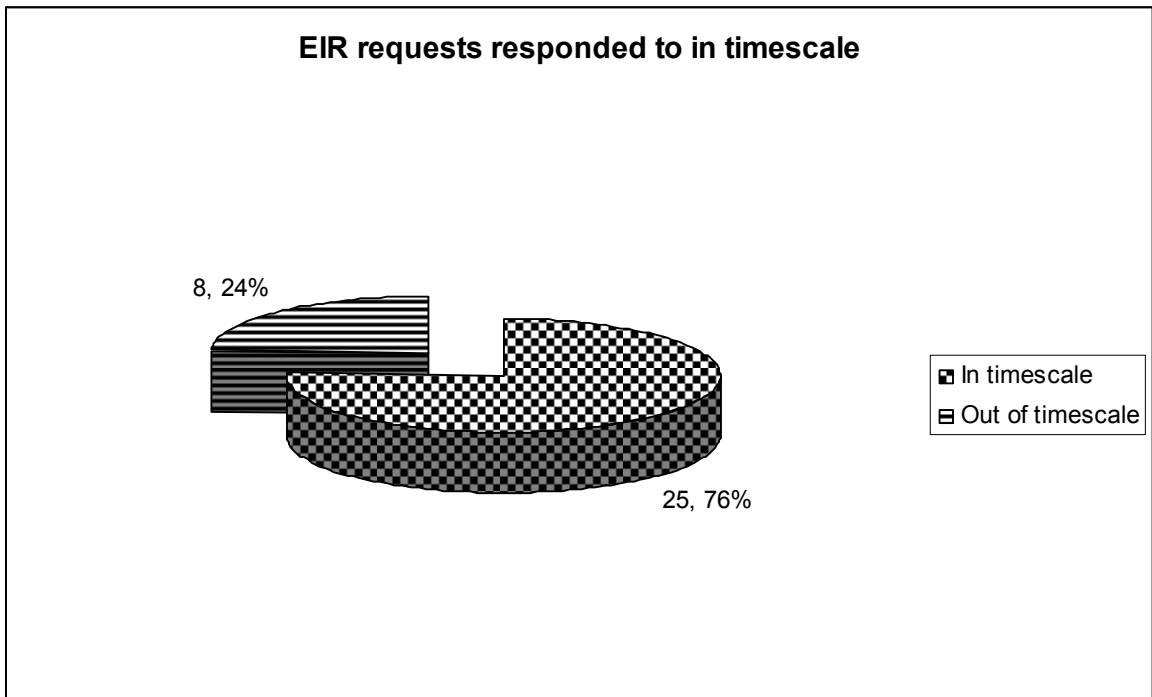
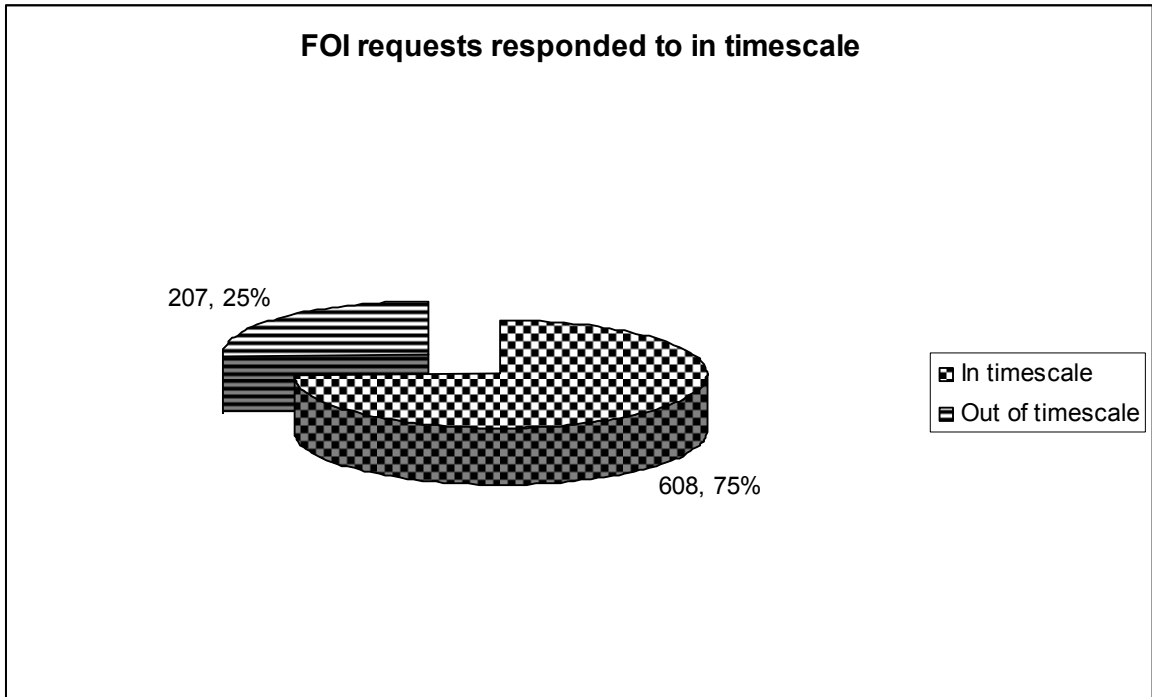
The following themes should be noted in respect of the requests assigned to Procurement & Contract Management; 18 requests related to contracts.

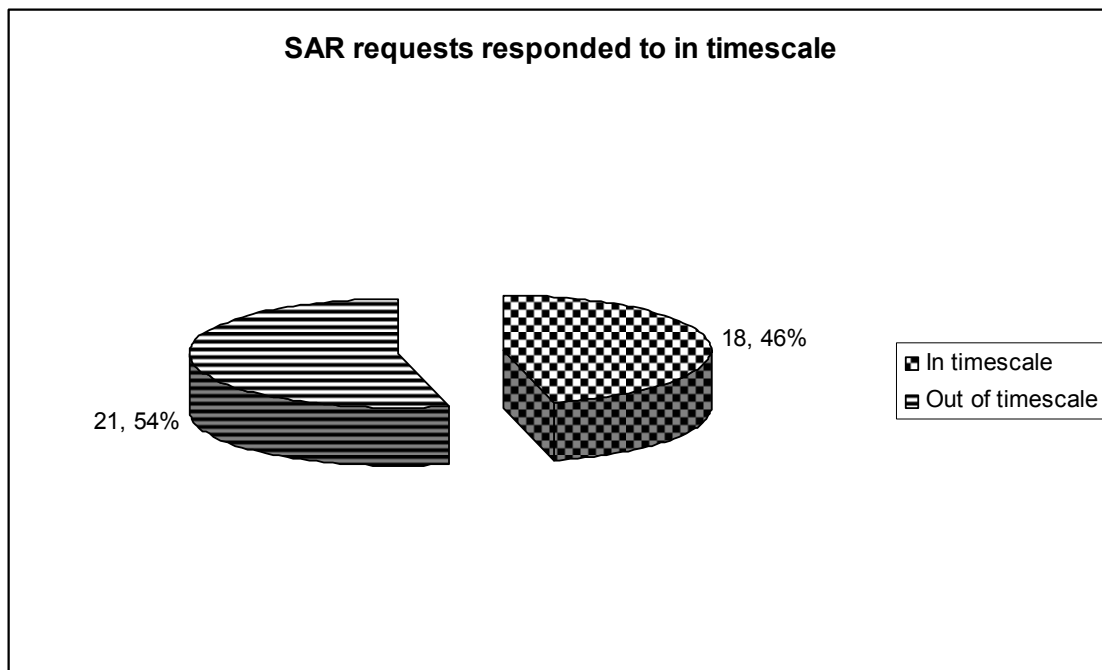
As the Council now provides details of all contracts in a Contracts Register, available via our website, it is likely that in future we will be able to refuse requests for contact details under section 21 of the Freedom of Information Act on the basis the information is already accessible to the applicant by some other means.

Recommendations

There are no recommendations for this section.

Proportion of requests answered in timescale



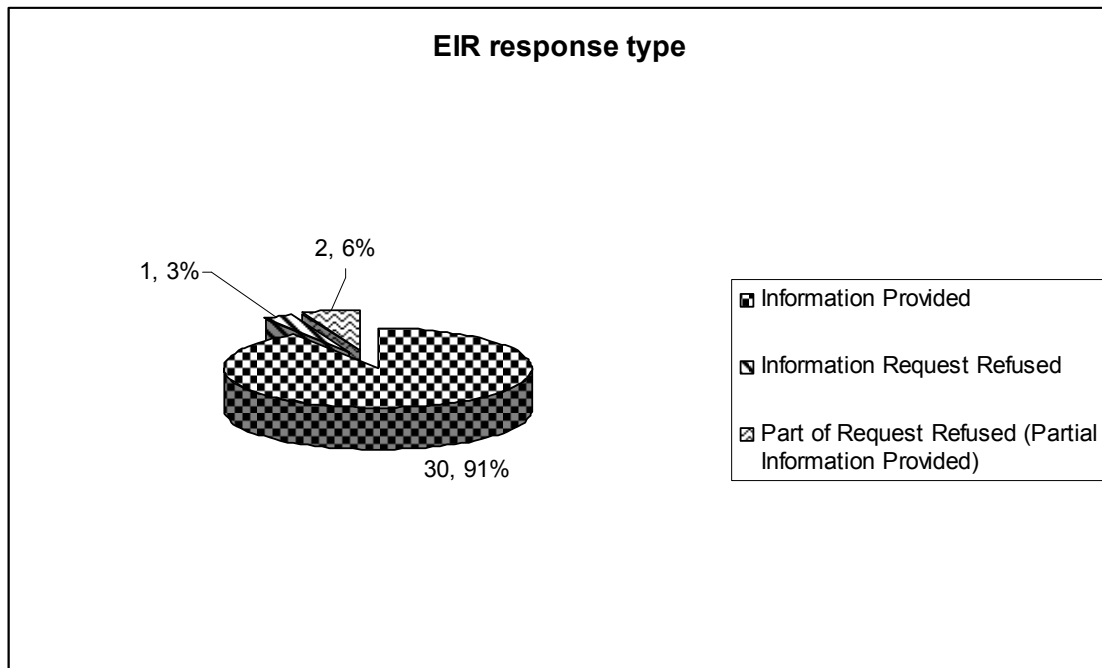
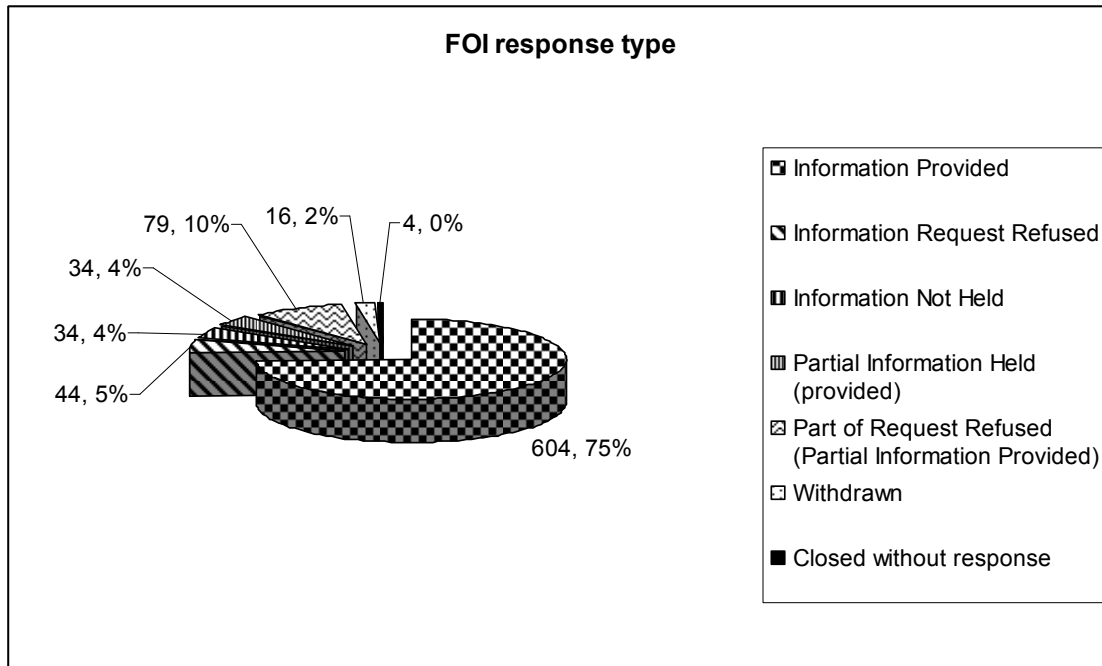


The above charts show the number of requests responded to by the Council during 2012/13; some of which were received during 2011/12.

Although the charts represent 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.

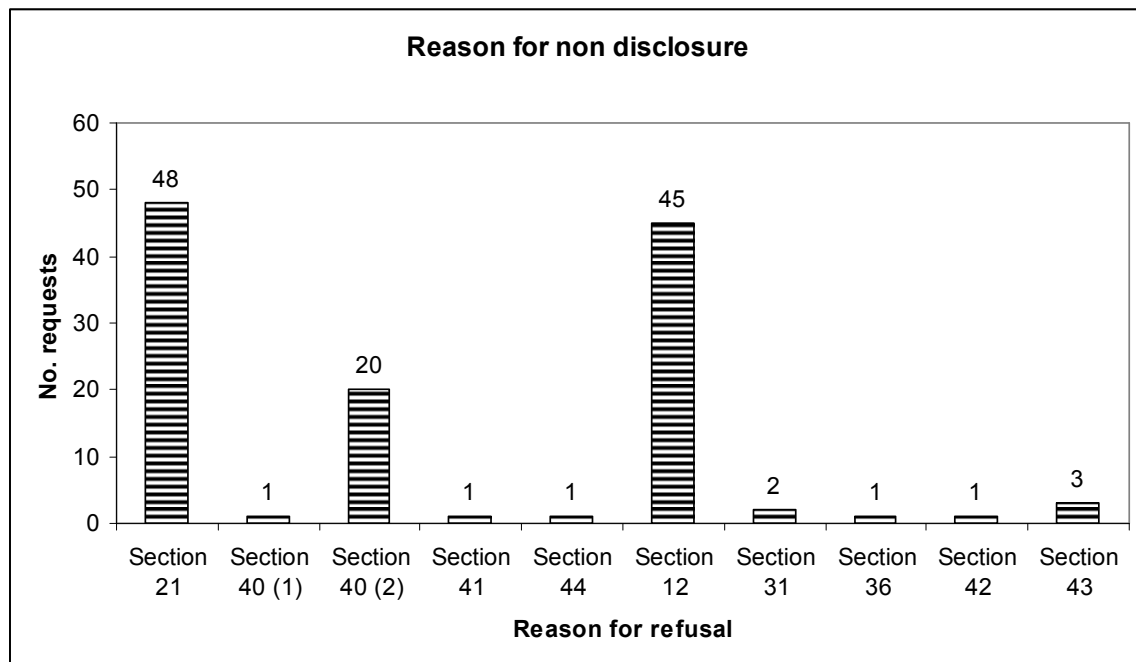
With regards to FOI and EIR requests, it also does not take into account instances where the requestor was contacted for clarification of their request; in such instances, the Council is entitled to 'restart' the 20 working day timescale from the working day following the date of receipt of the necessary clarification.

Type of response



The above charts show the response type in relation to those FOI and EIR requests responded to by the Council during 2012/13; some of which were received during 2011/12.

Reasons for refusal



While a single request can be refused for more than one reason the above graph shows the primary exemption applied.

FOI exemptions applied

In 2012/13, the most common exemption applied to an FOI requests was section 21 (applied 48 times). Section 21 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. This exemption was applied 22 times in 2011/12 and 17 times in 2010/11. The increase in the number of times the Council has been able to apply this exemption is as a direct result of information published following the recommendations of the two previous annual reports, along with the work of those more proactive service areas who have published information on the Council's Open data web page: www.darlington.gov.uk/opendata

While technically not an exemption under the Act, section 12 was applied 45 times. Section 12 is applied 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.

Section 40(2), an exemption for personal data about third party individuals, was applied 20 times.

EIR exceptions applied

Three requests were refused under Regulation 13. Regulation 13 is an exception for personal data about third party individuals.

Appeals to the Information Commissioner's Office

One requestor referred a complaint to the Information Commissioner's Office (ICO) having been dissatisfied with the Council's response to their SAR and the Council's subsequent response to their complaint about the matter. The ICO concluded that the Council had failed to comply with the Data Protection Act 1998, in that we did not adhere to the timescale or provide all of the information in the initial response. The Council apologised for the delay and provided the additional information. The ICO did not consider it necessary to take any action.