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<b>Report To:</b>	<b>Policy &amp; Resources Executive Sub-Committee</b>	<b>Date:</b>	<b>30 June 2020</b>
<b>Report By:</b>	<b>Corporate Director Environment, Regeneration &amp; Resources</b>	<b>Report No:</b>	<b>LP/068/20</b>
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<b>Subject:</b>	<b>Freedom of Information Annual Report - 2019</b>		

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## 1.0 PURPOSE

- 1.1 The purpose of this report is to provide the Policy & Resources Executive Sub-Committee with details of Freedom of Information (FOI) requests received by the Council during the period 1 January – 31 December 2019.

## 2.0 SUMMARY

- 2.1 The Freedom of Information (Scotland) Act 2002 (FOISA) came into effect on 1 January 2005. Under FOISA, a person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority, subject to certain conditions and exemptions which are set out in the FOISA. The Environmental Information (Scotland) Regulations 2004 (the EIRs) also came into force on 1 January 2005 and give the public rights of access to environmental information held by Scottish public authorities.
- 2.2 The Council has adopted the Model Publication Scheme 2016 which was produced and approved by the Scottish Information Commissioner on 29 March 2016. The Model Publication Scheme (MPS) and the Council's Guide to information available through the MPS are on the Council's website at [www.inverclyde.gov.uk](http://www.inverclyde.gov.uk).

## 3.0 RECOMMENDATION

- 3.1 The Policy & Resources Executive Sub-Committee is asked to note the information provided in relation to FOI requests received by the Council during 2019.

**Gerard Malone**  
**Head of Legal & Property Services**

## 4.0 BACKGROUND

- 4.1 FOISA provides a right of access to recorded information held by Scottish public authorities subject to certain conditions and exemptions which are set out in the FOISA.
- 4.2 The Council has adopted the Model Publication Scheme 2016 which was produced and approved by the Scottish Information Commissioner on 29 March 2016. The Model Publication Scheme (MPS) and the Council's Guide to information available through the MPS are on the Council's website at [www.inverclyde.gov.uk](http://www.inverclyde.gov.uk). The Council's Guide provides information on:-
- what information is available (and what is not available) in relation to each class;
  - charges that may be applied;
  - how to find the information easily;
  - contact details for enquiries and help with accessing the information; and
  - how to request information held by the Council that has not been published.
- 4.3 An applicant for information has the right to ask the Council to review its action and/or decisions if they are dissatisfied with the way in which the Council has dealt with the request for information. If still dissatisfied with the review decision, or if the review decision has not been received within 20 working days, an applicant may appeal to the Scottish Information Commissioner.
- 4.4 The Scottish Information Commissioner has since April 2013 asked all Scottish public authorities to provide statistics on FOI requests and requests under the EIRs, the number of Subject Access requests received, details of reviews dealt with and exemptions/exceptions applied on a quarterly basis. These statistics are available on the Scottish Information Commissioner's website at [www.itspublicknowledge.info](http://www.itspublicknowledge.info).
- 4.5 Although the Scottish Information Commissioner has no locus in relation to Subject Access Requests (SARs), this information is collected to see how the number of FOI and EIR requests authorities receive compares to the number of SARs received.

## 5.0 REQUESTS RECEIVED

- 5.1 During 2019, 1282 FOI requests, 16 requests under the EIRs and 64 SARs were received.
- 5.2 A comparison with the number of FOI and EIR requests received from 2014 is set out in the table below.

Year	FOIs	EIRs	Total	FOI/EIRs Responses Within Statutory Timescale	FOI/EIRs Response Outwith Statutory Timescale	Withdrawn/ Carried Forward (clarification/ fees)
2014	1121	19	1140	1030	89	21
2015	1029	12	1041	851	157	33
2016	1193	14	1207	1010	151	46
2017	1265	16	1281	1063	95	123
2018	1273	32	1305	1042	197	46
2019	1282	16	1298	1144	119	25

- 5.3 Members will note from the table above that, in comparison with 2018, there has been a marginal decrease in the number of FOI/EIR requests dealt with by the Council. It should also be noted that there has been a 50% reduction in the number of EIRs received in 2019. There has been a 60% increase in the number of SARs received when compared against the 2018 figures. This is largely attributable to individuals being more aware of their rights of access under the Data Protection Act 2018.
- 5.4 The number of FOIs/EIRs which were responded to out-with the statutory timescale decreased by 60% in 2019. This is largely attributable to the increased oversight and focus that services have

placed on responding to requests on time. The number of cases which were carried forward, required clarification or were withdrawn reduced by 54% and this reflects improved action by services in dealing with requests received. The Council is legally bound to comply with FOISA and EIRs. A failure to respond to a FOI/EIR request within the statutory timescale is a breach of the legislation.

- 5.5 During 2019, the Council received 9 FOISA requests for review and 3 EIR requests for review. Two cases were referred to the Scottish Information Commissioner for a decision. The Scottish Information Commissioner upheld the Council's decision on one appeal and the other was later withdrawn by the applicant once further information was disclosed.
- 5.6 FOI/EIR requests are dealt with within existing staff resources and are recorded and co-ordinated centrally by Legal & Property Services. In addition, Legal & Property Services deals with any requests which are specific to the service, all of the corporate requests, the preparation and submission of quarterly statistical returns to the Scottish Information Commissioner and quarterly monitoring reports to the CMT. This is supported by staff within the directorates who deal with service specific requests.
- 5.7 Quarterly reports on progress throughout the year are submitted to the CMT for overall review and any actions on a service specific basis and to ensure awareness of the impact on staff resources.

## 6.0 IMPLICATIONS

### 6.1 Financial

All costs associated with dealing with FOI and EIR requests, reviews and appeals and SARs are contained within existing budgets. Information on the time spent and estimated costs (based on the mid-point of the relative salary grade) of dealing with FOI and EIR requests across the Council has been collated from May 2016. Services are conscious of the need to accurately record the costs incurred and guidance and support are offered to assist in ensuring the Council has a clear view of the resources utilised. The time spent on and estimated cost of dealing with FOI and EIR requests during January-December 2019 is set out in the table below and show an increase in estimated hours and costs. It is recognised that services have improved the accuracy of providing time and cost recording for reporting purposes.

Period	Time Spent	Estimated Cost
January - December 2017	1814.4 hours	£30,112.93
January – December 2018	1412.20 hours	£23,953.28
January – December 2019	1934.95 hours	£39,122.34

One off Costs:

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact £'000	Virement From (If Applicable)	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

### Legal

- 6.2 The Council is legally bound to comply with FOISA and the EIRs. The Scottish Information Commissioner has powers of enforcement which can be used where a public authority is

consistently failing to comply with the legislation.

### **Human Resources**

6.3 None.

### **Equalities**

6.4 None.

### **Repopulation**

6.5 There are no direct implications in respect of repopulation.

## **7.0 CONSULTATIONS**

7.1 None.

## **8.0 LIST OF BACKGROUND PAPERS**

8.1 None