

Freedom of Information (Scotland) Act 2002

Information Request Handling

Annual Report 2017

January 2020

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Foreword

The Minister for Parliamentary Business and Veterans reflects on the Scottish Government's performance in handling information requests, the two Parliamentary debates on request handling which took place in June, as well as intervention by the Scottish Information Commissioner.



I am pleased to present the Scottish Government's 2017 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).

The report contains a variety of statistical detail on request handling in 2017 as well as allowing for comparison with data contained in reports from previous years.

As will be seen, 2017 saw unprecedented levels of information requests being made to the Scottish Government and its agencies. In total, 3,050 requests were received during the year – a 45% increase on the number received in 2016.

As we have previously acknowledged, our performance at the start of 2017 was not at the level we would expect in complying with our statutory obligations under FOISA. As reported in the 2016 annual report, the Scottish Information Commissioner began an independent assessment of our performance against a set of targets in early 2017. This has involved providing monthly reports on our performance to the Commissioner.

As part of this assessment process, the agreed target for responding to requests and reviews on time in 2017 was 85%. I am pleased to report that performance in 2017 improved significantly from that in 2016. In 2017 we responded to 83% of requests and 67% of reviews within the statutory 20 day deadline. While it is disappointing that we fell short of the Commissioner's targets, there were encouraging signs of progress, with the target being exceeded in 6 of the 9 months during which we reported to the Commissioner.

Throughout 2017 we sought to improve performance through a range of measures intended to ensure organisational awareness of the obligations imposed by FOISA and in seeking to promote good practice and proactive publication wherever possible.

I am pleased to note that in 2017 information was released in full or in part in response to the vast majority of information requests. In addition, the number of appeals remains low with a decision being sought from the Commissioner in 36 cases.

As part of demonstrating our commitment both to improved performance and wider openness and transparency objectives, our monthly performance statistics are now published on the Scottish Government website. From July 2017 we have published the information released in response to information requests, along with the substance of the response letters.

The Scottish Government's information handling performance formed the focus of two Parliamentary debates in June 2017. On taking office as Scottish Information Commissioner in October 2017, Daren Fitzhenry noted the issues raised in these Parliamentary debates, which concerned issues of wider FOI practice and culture in the Scottish Government.

Towards the end of 2017 the Commissioner wrote to the Scottish Government outlining his intention to undertake a second, more broadly focussed, intervention. Information on this process is available on the Commissioner's [website](#).

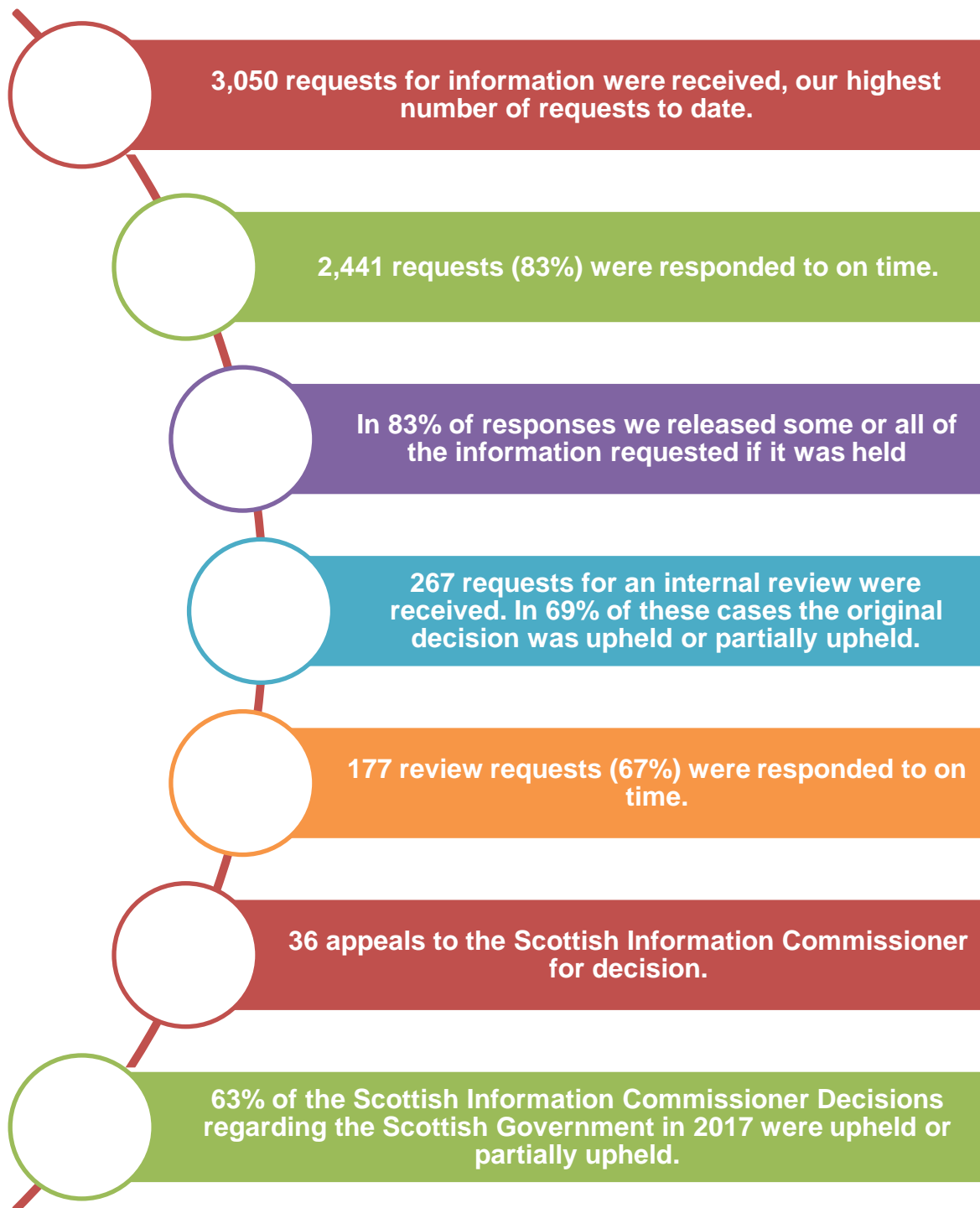
Following consultation in late 2016 and early 2017 on the principle of bringing registered social landlords within the scope of FOISA, we began action to deliver that extension.

In October 2017, we published our second biennial report on the exercise of the section 5 order-making power. It principally considered the extension of FOISA, in September 2016, to contractors who run private prisons, providers of secure accommodation for children, grant-aided schools, independent special schools and Scottish Health Innovations Ltd. It also summarised the consultation process in relation to the proposed extension of FOISA to registered social landlords.

While 2017 brought a number of challenges for the Scottish Government in handling information requests, it also marked the beginning of a wide range of work to improve matters in order to ensure that the Scottish Government continues to deliver on its aspiration of being the most open and accessible government the people of Scotland have ever had.

GRAEME DEY

Key statistics – 2017 at a glance



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.

Developments in 2017

in early 2017 the Scottish Information Commissioner began an independent assessment of the Government's performance against a set of targets. This has involved the Commissioner's Office monitoring, on a monthly basis, the Scottish Government's performance.

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.

In July 2017, we began to publish the information released in response to Freedom of Information requests. View all FOI responses in the [Publications section](#) of our website.

Number of requests received

The Scottish Government received 3,050 requests for information in 2017. 2,527 requests were handled under FOISA, 522 were handled under the EIRs and 1 request was handled under both FOISA and the EIRs as it requested both environmental and non-environmental information.

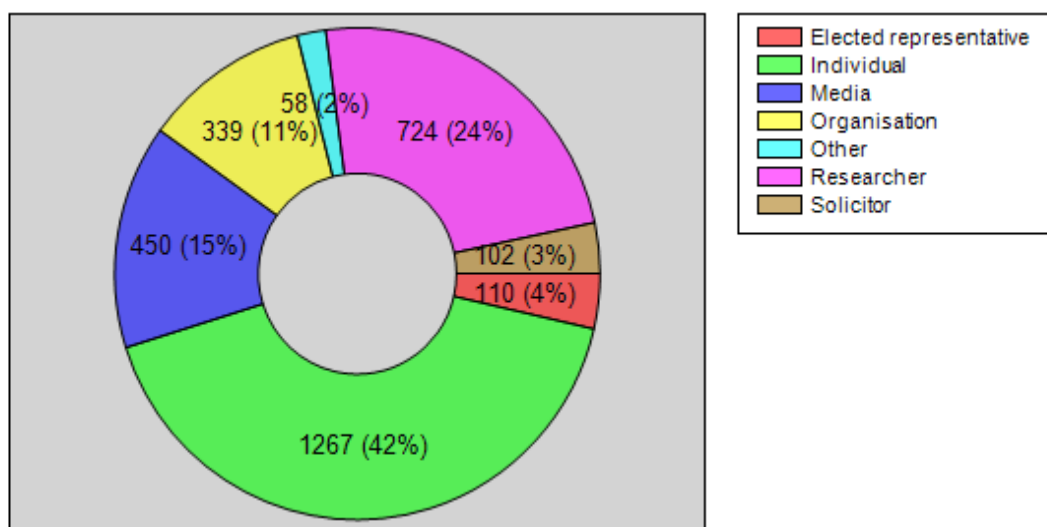
Requests are answered by the business area responsible for the subject matter of the request. Details about the functions of the Scottish Government are available on the [About the Scottish Government section](#) of our website.

Requests	Total
Director-General Constitution and External Affairs	406
Director-General Economy	1,069
Director-General Education, Communities and Justice	718
Director-General Health & Social Care	190
Director-General Organisational Development and Operations	321
Director-General Scottish Exchequer	118
Ministerial Private Offices	228
Total	3,050

The number of requests received averaged 254 per month with actual figures ranging from 151 requests in December to 418 requests in October.

Composition of applicants

42% of all requests received in 2017 were from members of the public.



Performance

The majority (83%) of requests for information received by us were processed on time in 2017, i.e. within 20 working days of receipt of the request. Of the 3,050 requests received in 2017, 2,441 were answered on time, 486 were late, 120 were withdrawn and 3 were not proceeded with after clarification was requested.

Requests	On Time	%	Late	%	Total
Director-General Constitution and External Affairs	344	87	53	13	397
Director-General Economy	851	84	167	16	1,018
Director-General Education, Communities and Justice	602	86	94	14	696
Director-General Health & Social Care	114	63	66	37	180
Director-General Organisational Development and Operations	266	87	39	13	305
Director-General Scottish Exchequer	107	95	6	5	113
Ministerial Private Offices	157	72	61	28	218
Total	2,441	83	486	17	2,927

Outcome of requests

During 2017 the Scottish Government released information in full or in part in response to 83% of requests where information was held.

It is not always appropriate for us to release information. Information can be withheld from an applicant on the basis of one or more of the exemptions or exceptions laid down in FOISA or the EIRs. In such cases, we will fully explain to an applicant why we are unable to provide the information, for example, for reasons of confidentiality or because it is personal data.

In the majority of cases where we were unable to provide some or all information in response to a request received in 2017, this was because:

- We did not have the requested information (691 requests), or
- The information was personal data of a third party (248 requests)

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 received, only 9% resulted in an internal review being requested.

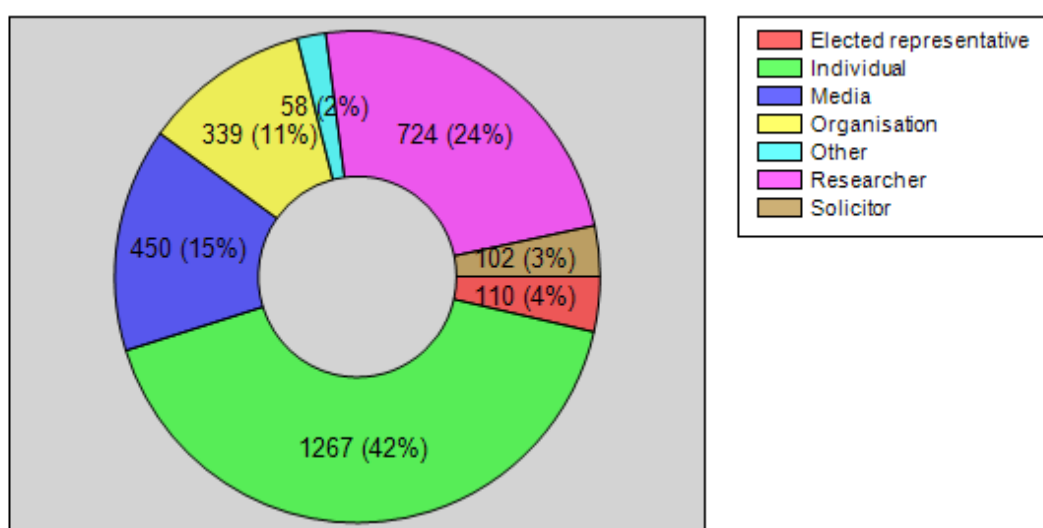
Number of review requests received

In total, 267 reviews were received by the Scottish Government in 2017. 222 review requests were made under FOISA and 45 were made under the EIRs.

Reviews	Total
Director-General Constitution and External Affairs	21
Director-General Economy	82
Director-General Education, Communities and Justice	67
Director-General Health & Social Care	47
Director-General Organisational Development and Operations	27
Director-General Scottish Exchequer	7
Ministerial Private Offices	16
Total	267

Composition of applicants

The following graph breaks down the source of requests for an internal review.



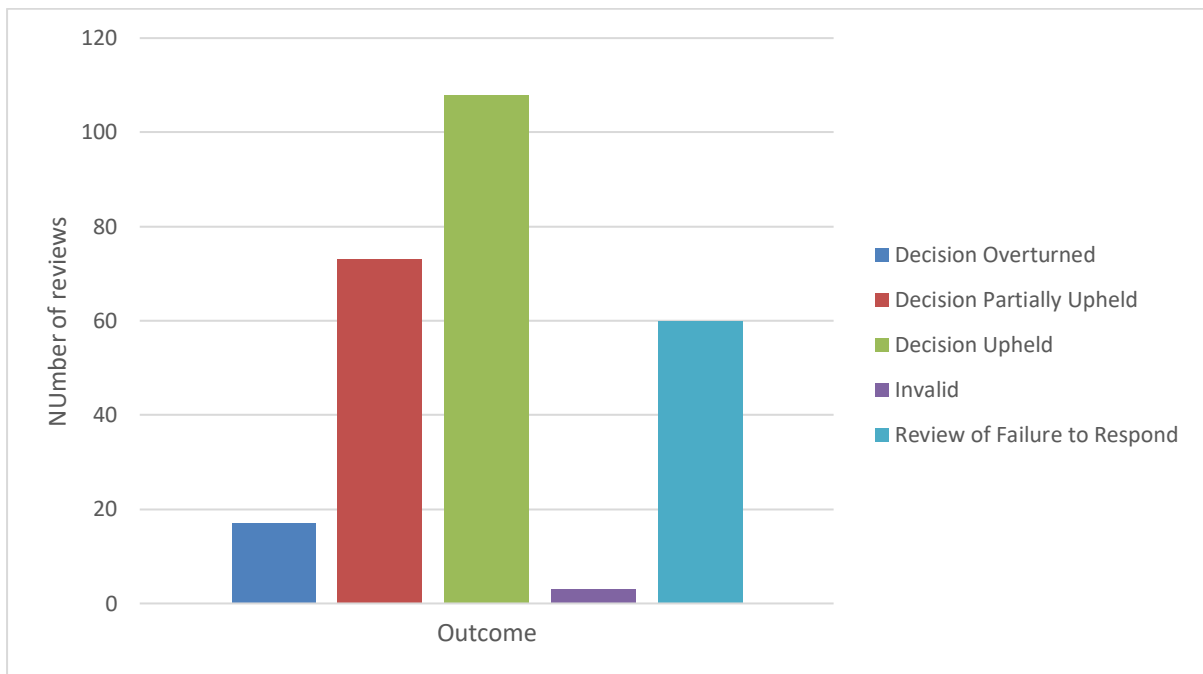
Performance

The majority (67%) of all requests for review received in 2017 were responded to on time. Of the 267 reviews received, 177 were answered on time, 89 were late and 1 was withdrawn.

Reviews	On Time	Late
Director-General Constitution and External Affairs	16	4
Director-General Economy	60	22
Director-General Education, Communities and Justice	56	11
Director-General Health & Social Care	7	40
Director-General Organisational Development and Operations	22	5
Director-General Scottish Exchequer	7	0
Ministerial Private Offices	9	7
Total	177	89

Outcome of reviews

The following graph sets out the outcome of requests for an internal review. The initial decision was upheld or partially upheld in 69% of cases.



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 2017, 36 appeals were made to the Commissioner in relation to our handling of information requests. Although this represents a 26% increase compared to 2016 (28 appeals), this should be seen in the context of a 45% increase in the number of requests over the same period.

Decisions by the Commissioner

32 Decisions were made by the Commissioner during 2017 in relation to requests made to the Scottish Government. 63% (20) were wholly or partially in our favour. 4 decisions relating to appeals about the substance of a response were fully in favour of the applicant. The remaining 8 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 [website](#).

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.

Based on these figures, the estimated cost of responding to information requests, reviews and appeals during 2017 is shown in the table below.

Stage	Cost
Requests	£658,800
Reviews	£111,873
Appeals	£48,384
Total	£819,057

Coverage of this report

The Scottish Government has offices spread across the length and breadth of the country. However, not all of these offices 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 and are not included in this Report.

Bodies that are included

Directorate-General Constitution and External Affairs, including:

National Records of Scotland

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

HM Inspectorate of Constabulary

HM Inspectorate of Prisons

HM Fire Service Inspectorate

Directorate-General Health and Social Care

Directorate-General Organisational Development and Operations

Directorate-General Scottish Exchequer, including:

Scottish Public Pensions Agency

Bodies that are not included

Registers of Scotland

Office of the Scottish Charity Regulator

Scottish Prison Service



Scottish Government
Riaghaltas na h-Alba
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