

Freedom of Information (Scotland) Act 2002
Information request handling in the Scottish Executive
January - December 2006



Foreword by the Minister for Parliamentary Business

Freedom of information marked a significant step forward in openness for Scottish public authorities, and the first two years have certainly been an interesting and challenging period. 2006 has proved another eventful year, and it is encouraging that the right to access information from Scottish public authorities is undoubtedly being widely used.

The Scottish Executive's experience to date demonstrates considerable public enthusiasm for Freedom of Information and we have handled thousands of requests for information. However, Freedom of Information is not just about information being provided in response to requests, it is also about initiating changes in making more information pro-actively available. Since the introduction of the Act, the Executive have routinely published more information than was previously available, including information on task forces and working groups, procurement, and internal guidance. The work in this area needs to be continued in order to build upon the success to date.

The Executive takes its responsibilities under the Act seriously, and of course our experience only accounts for one of almost 10,000 public authorities subject to the Act. However, there is no doubt that Freedom of Information has already made public a range of information which demonstrates that it is delivering the anticipated benefits in making Scottish public authorities more open and transparent.

A handwritten signature in black ink that reads "Margaret Curran". The signature is written in a cursive style with a large initial 'M' and 'C'.

Margaret Curran

The Freedom of Information (Scotland) Act 2002

The [Freedom of Information \(Scotland\) Act 2002](#) came into force on 1 January 2005.

The Act introduced a general statutory right of access to all types of 'recorded' information of any age held by Scottish public authorities. Subject to certain conditions and exemptions, any person who makes a request for information will be entitled to receive it.

The Act is enforced by [the Scottish Information Commissioner](#), a fully independent public official.

Information request handling in the Scottish Executive

The Scottish Executive makes large amounts of information available, both on request and proactively. As an established and routine part of our business, this includes information released in the form of leaflets, through correspondence, in reports and other published material, on the topic pages of our website and through our Publication Scheme.

To provide an indication of the volumes in question during 2006, approximately 37,600 pieces of Ministerial correspondence were handled, our Central Enquiry Unit received in the region of 7000 emails, and countless other pieces of correspondence are handled on a daily basis by Scottish Executive staff. All information released by us on request is covered by the Freedom of Information (Scotland) Act.

To take account of and monitor all such activity across the Scottish Executive would be unfeasible, and is not required by the section 60 Code of Practice on the discharge of functions by public authorities under the Freedom of Information (Scotland) Act. However, the Scottish Executive's FOI Unit asks staff to notify the unit of what are termed as "non-routine" requests.

"Non-routine" requests are those where staff have required assistance in handling the request under the terms of the Freedom of Information (Scotland) Act, and it has therefore been notified to the Freedom of Information Unit.

Consequently, we do hold certain information on requests, but this only provides an indication of the handling of the more complex requests, and does not reflect the true extent to which information requests are being handled and responded to across the Scottish Executive.

The information available is therefore based on this subset of the overall information requests received by the Executive.

The associated Environmental Information Regulations (EIRs) also came into force on 1st January but numbers of requests handled under the Regulations have been relatively low and are not separately analysed in this report.

How to Request Information from us

We make a lot of information available already. Before you decide to make a request, please consider if the information you require is already available. To see if it is you can:

1. [Search](#) our website for the information.
2. Check our [Publication Scheme](#)
3. Find out if the information has been published on our [Released information log](#).

If you still can't find what you are looking for, or you require information available on our website in a different form (a hard copy, for example) you may ask for it by:

Emailing us at ceu@scotland.gsi.gov.uk

or by writing to us at:

Scottish Executive
The Scottish Executive
St Andrew's House
EDINBURGH
EH1 3DG

Please be as specific as possible about the information you want, as this will help us to find it for you. In responding to your requests for information we will do so in accordance with the Freedom of Information (Scotland) Act 2002. Some information may not be available because it falls within one of the exemptions of the Act. When that happens, we will tell you which exemption applies and, in most cases, why the information cannot be provided.

About our publication scheme

The publication scheme describes the information that we publish, in what form it is published, and details of any charges for providing the information.

Information in the publication scheme is split into the following classes:

- [Information published for external purposes](#)
- [Public consultations](#)
- [External guidance on grants and subsidies schemes](#)
- [Internal Scottish Executive Guidance](#)
- [Scottish Executive business planning](#)

- [Scotland's public authorities and public appointments](#)
- [Minutes and papers of task forces/working groups](#)
- [Procurement](#)

This publication scheme supports the Scottish Ministers' policy of making public the facts, and analysis of the facts, which they consider relevant and important in framing their major policy proposals and decisions. It also has regard to the public interest in the disclosure of factual information which will help to provide an informed background to the policies and decisions of the Scottish Ministers. The publication scheme is approved by the Scottish Information Commissioner.

Communication networks

The Scottish Executive established the Scottish Freedom of Information Implementation Group (SFOIIG) in January 2001 to support the implementation of FOI in Scotland.

Since the Act came into force, the Group has continued to meet and has proved an extremely useful forum for a number of activities, including: to hear and discuss progress updates from the Scottish Information Commissioner and the Scottish Executive; considering the experiences of different public authorities in Scotland; discussing challenging issues and sharing knowledge and good practice; and to gain an understanding of the perspective of users of the Act.

We endeavour to hold meetings of the Group in publicly accessible buildings, and members of the public are welcome to attend. The Group met three times during 2006, and last met in March 2007. This was formally the last meeting of the Group under this title, but the Group will continue with a new name and remit as the Scottish Freedom of Information Forum to reflect that the Act has now been in force for over 2 years, and it will continue to meet during 2007 and beyond.

Review of operation of Freedom of Information in Scotland

Acting on previous commitments and in light of issues put to Ministers, the Minister for Parliamentary Business initiated a review of the operation of Freedom of Information in Scotland at the end of 2005. The review set out to determine whether there was any requirement for fine-tuning the Act to enable the continued successful operation of Freedom of Information in Scotland. The outcome of the review was announced on 15 March 2007, and the announcement by the Minister for Parliamentary Business is available on the Scottish Executive's website at

<http://www.scotland.gov.uk/Topics/Government/FOI/foireview2005/foireviewintro>.

Information held on Scottish Executive requests handled during 2006

The Scottish Executive's Freedom of Information Unit were notified of 1122 requests which were handled by Scottish Executive core departments between the beginning of January 2006 and the end of December 2006. The Scottish Executive's Freedom of Information Unit were notified fully of the terms and outcome in the case of 658 of those requests for information. As noted above, these are "non-routine" requests, and these therefore represent only a subset of the information requests received by the Executive.

Of these requests, 29 were invalid or withdrawn, e.g. the request was incorrectly logged or the applicant decided not to proceed with the request, leaving 629 requests where we hold a record of the request and its outcome on which to base an analysis.

These requests concerned many and wide-ranging subjects, and where information is released by us in response to a request, we believe that in many cases this will be of interest to the wider public in addition to the original applicant. We therefore endeavour to get the information published on our [Released information log](#), and we are progressively working towards putting more of the information that is released on that log.

The Freedom of Information (Scotland) Act recognises the presumption of openness, but it also expressly recognises that there must be some limitations to this. The legislation strikes a responsible balance between correct disclosure and correct withholding of information, and there are 17 categories of exempt information in total. There are two types of exemptions: some are absolute, which means that if the exemption applies the information will not be released under the Act; the others are conditional in that they require consideration of the public interest in deciding whether or not to disclose the information even if the exemption does apply.

The exemptions cover areas such as formulation of Scottish Administration policy, national security and defence, law enforcement and commercial interests. In response to some requests, information has been partially withheld. This means that we have released new information, but also that we consider that some of the information requested is exempt from disclosure under the Act, for example where it constitutes the personal information of a third party, or where providing the information would be a breach of confidentiality.

During 2006, based on the subset of 629 requests as outlined above, the Scottish Executive released new information in 63% of cases, and in 40% of these cases the information was released in full.

In relation to information withheld, due to the types of information we hold and the information requested from us, certain exemptions may apply more often than others. During 2006, the exemptions which were most often applied to information requested, based as a percentage of the 629 requests, were:

1. Prejudice to effective conduct of public affairs (section 30) - 18.9%
2. Formulation of Scottish Administration policy etc. (section 29) - 11.1%
3. Personal information (section 38) - 7.5%
4. Confidentiality (section 36) - 6.4%
5. Relations within the United Kingdom (section 28) - 4.6%

Other reasons why we may not be able to provide the information requested include:

- where we do not hold the information (section 3(2)(a)) - 12%;
- where complying with the request would exceed £600 (section 12) - 4%; or
- where the request is vexatious or repeated (section 14) - 0.3%.

61% of the requests were answered on time. The Act does not allow public authorities to extend the 20 working day deadline for responding to requests beyond 20 working days, and we take our obligations under the Act extremely seriously. However, there have been a number of requests that, in spite of best efforts, have not been answered within the statutory time limit for example because they have been complex or have involved large amounts of information. Where we are not able to respond to your request for information within the statutory deadline, we aim to contact you to explain why and advise that we are working on providing a response. If the applicant is dissatisfied with this, they still of course have the right to request a review and ultimately have the right to appeal for a decision of the Scottish Information Commissioner. We are pleased that, in relation to the number of requests we receive overall, we have had an extremely low number of full investigations by the Scottish Information Commissioner where an applicant has approached the Commissioner through dissatisfaction with the timeliness of our response.

Where an applicant is dissatisfied with our response to a request or if, as mentioned above, an applicant is dissatisfied that we have not provided a response within 20 working days, a review can be requested.

If an applicant is unhappy with the review of the request or, as above, an applicant is dissatisfied that we have not provided a response to the request for a review within 20 working days, an appeal can be made to the Scottish Information Commissioner.

During 2006, a review was requested in 18% of cases, which indicates that in the main, applicants are satisfied with our initial response to their request.

165 applications had been made to the end of 2006 for a decision by the Scottish Information Commissioner for cases involving the Executive or Executive Agencies, 79 during 2005 and 86 during 2006. 64 decisions had been issued in respect of those cases, with a further 16 abandoned or withdrawn by the applicant. More information on appeals and decisions is available at <http://www.itspublicknowledge.info>