

Report to:	QSMTM
Report by:	HOCS/FAM (Liz Brown)
Meeting Date:	07 November 2019
Subject/ Title: (and VC no)	Information requests, requests for review and subject access requests VC125978
Attached Papers (title and VC no)	Summary table, exemptions and exceptions applied, outcomes of requests VC121707

Purpose of report

1. This report is required under the Governance Reporting Arrangements and its purpose is to inform the SMT about information requests, requests for review and subject access requests dealt with in 2019 -20 Q2 (1 July 2019 - 30 September 2019).

Recommendation and actions

2. It is recommended that:
 - (i) the SMT notes the contents of this report
 - (ii) the SMT notes that the information in this report has been uploaded to the FOI and EIR Statistics Portal
 - (iii) this committee report, the summary table & the exemptions and exceptions applied table are published in full
 - (iv) the outcome of requests for information is withheld for the reasons set out in paragraph 34.

Executive summary

Requests for Information

3. As a Scottish public authority we have statutory obligations to respond to requests we receive for information which we hold. Requests are forwarded, on receipt, to the most appropriate member of staff for a response (all staff respond to information requests). We maintain a record of all requests in our case management system.

Subject Access Requests

4. The right of access, commonly referred to as subject access, gives individuals the right to obtain a copy of their personal data as well as other supplementary information. This helps individuals to understand how and why we are using their data and also enables them to check we are doing this lawfully.
5. The GDPR does not specify how a person should make a make a valid subject access request. Therefore, an individual can make a subject access request to us verbally or in writing. A subject access request can also be made to any part of our organisation (including by social media) and does not have to be made to a specific person or contact point.
6. A subject access request does not have to include the phrase 'subject access request' or Article 15 of the GDPR, as long as it is clear that the individual is asking for their own personal data.

7. We have a responsibility to identify that an individual has made a request to us and then handle and respond to it accordingly.
8. Requests are forwarded, on receipt, to the most appropriate member of staff for a response.
9. We maintain a record of all subject access requests in our case management system.

Volumes of requests

10. To date, we have considered the subject access statistics along with the requests for information and requests for review statistics and for the purposes of our reporting systems we will continue to do this for this financial year.
11. Any requests categorised as joint FOISA/EIRs have been included in both the FOISA and the EIR numbers. The attached summary table analyses the statistics in the same way. This reflects the requirement on the FOI portal when entering our stats and, therefore, ensures consistency of reporting.
12. In Q2, 28 requests were received as follows:
 - 18 requests under FOISA
 - 1 request under EIRs
 - 8 subject access requests
 - 1 request for review

Figures in comparison to last year:

	2018-19	2019-20	% increase/decrease over 2018-19
Number received Q1	21	16	23%
Number received Q2	25	28	12%
Number received Q3	42		
Number received Q4	30		
Total	118	44	

Requests for information analysis

13. For requests received under FOISA and EIRs, the following categories were recorded:

	2018-19 Total		2019-20 Q1	2019-20 Q2	2019-20 Q3	2019-20 Q4	2019-20 Total	%
About our functions/services	39	44%	7	12			19	65%
Application related	23	26%	2	6			8	28%
Misdirected - sent to us in error, asking for information which is likely to be held by other authorities	25	29%	1	1			2	7%
Other	1	1%	0	0			0	0%
Total	88	100%	10	19			29	100%

14. For requests closed under FOISA and EIRs, the following outcomes were recorded:

	2018-19 Total		2019-20 Q1	2019-20 Q2	2019-20 Q3	2019-20 Q4	2019-20 Total	%
Information provided in full	21	25%	4	3			7	24%
Information partially supplied	13	15%	1	3			4	14%
Information not held	35	41%	3	6			9	31%

Information refused (exempt)	10	12%	2	3			5	18%
Neither confirm nor deny	1	1%	1	0			1	3%
Clarification not provided	2	1%	0	0			0	0%
Repeated request	0	0%	0	0			0	0%
Request withdrawn	4	5%	0	0			0	0%
Request invalid	0	0%	1	2			3	10%
Vexatious	0	0%	0	0			0	0%
Total	86	100%	12	17			29	100%

15. Timescales and targets for responding to requests for information:

Description	Target	Q1	Q2	Q3	Q4	Total
Request response: 5 days or fewer	60%	50%	24%			34%
Request response: 20 days or fewer	100%	100%	100%			100%

Requests for review analysis

16. There was 1 request for review open at the end of Q1 and carried forward into Q2 and 1 request for review was received in Q2.
17. There were 2 requests for review closed in Q2 and each was responded to within the statutory timescales. The outcomes were:
- 1 request for review was invalid
 - 1 request for review confirmed the original decision in full.
18. There were no requests for review open at the end of Q2.

Subject access requests analysis

19. There were 8 SARs were received in Q2.
20. There were 5 SARs closed in Q2 and all were responded to within the statutory timescales.
21. There were 3 SARs open at the end of Q2 which have been carried forward into Q3.

Risk impact

22. We have a range of policies and procedures in place providing detailed guidance on how to respond to requests for information and subject access requests. These policies are being reviewed to ensure that they are up to date and that requests for information and subject access requests are being appropriately handled and responded to.
23. A failure to respond to information requests and subject access requests within the statutory timescales would have an adverse impact on the Commissioner’s reputation and, as regards subject access requests, could result in a complaint being made to the ICO.
24. This CR contributes towards the control measures aimed at reducing the likelihood and impact of risk relating to information governance.

Equalities impact

25. No equalities issues arise from this report.

Privacy impact

26. There is no direct privacy impact arising from this report.

Resources impact

27. Responding to information requests and subject access requests can be demanding on officer time due to the deadlines for response and the research that may be required to identify relevant information.

Operational/ strategic plan impact

28. The guidance and procedures for handling information requests and subject access requests aim to ensure consistency of approach across the office and improve the efficiency of the process.

Records management impact (including any key documents actions)

29. The Key Document Responding to Information Requests: Guidance and Procedures is next due to be reviewed in March 2020 by the HOCS as Responsible Manager. It was agreed, in principle, at the MSMTM meeting on the 16/10/19, that we should consider whether other members of staff, not just the HOPI, can respond to requests for reviews and the HOE has begun a review of the administration aspects of handling RFIs which will also look at the procedures for dealing with requests for reviews. The HOCS will also be involved in the review and, in due course, will submit a report on any changes to the procedures and the Key Document to the SMT for approval.
30. As subject access requests fall within a different statutory regime, the guidance to staff on handling and responding to these requests will be set out in the revised Data Protection Policy rather than the Responding to Information Requests: Guidance and Procedures.
31. The revised Data Protection Policy is due to be submitted to the SMT at its next meeting. In addition, we also need to consider separating out and reporting separately on subject access statistics in future financial years. The HOCS will be undertaking a review of this and reporting the recommendations to the SMT as soon as possible. If any changes are required we should aim to have them in place for the next financial year, that is, 2020-2021.

Consultation and Communication

32. None.

Publication

33. This committee report, the summary table and the exemptions and exceptions applied table should be published in full.
34. The outcome of requests table is withheld on the basis that section 38(1)(b) of FOISA applies as it contains personal data.