

**REPORT TO:** POLICY AND RESOURCES COMMITTEE - 10 DECEMBER 2007

**REPORT ON:** IMPACT OF FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

**REPORT BY:** DEPUTE CHIEF EXECUTIVE (SUPPORT SERVICES)

**REPORT NO:** 615-2007

## **1.0 PURPOSE OF REPORT**

To provide members with an overview of the resource and financial impact that the Freedom of Information (Scotland) Act 2002 has had on Dundee City Council.

## **2.0 RECOMMENDATIONS**

It is recommended that the Council note the contents of this report.

## **3.0 FINANCIAL IMPLICATIONS**

The Scottish Government provided no funding to implement the Act therefore all expenditure has had to be contained within Departmental budgets.

## **4.0 BACKGROUND**

- 4.1 The Freedom of Information (Scotland) Act 2002 gives a general right of access to all types of recorded information held by public authorities, sets out exemptions to that right and places a number of related obligations on public authorities, particularly in relation to Records Management and Publication Schemes.
- 4.2 Any person who makes a request to a public authority for information, subject to certain exemptions, must be informed whether or not the public authority holds that information and, subject to various statutory exemptions, be supplied with that information.
- 4.3 Individuals already have the right to apply for personal information about themselves under the Data Protection Act 1998.
- 4.4 As far as public authorities are concerned, the Freedom of Information (Scotland) Act 2002 extends that right to allow public access to all types of information. This individual right of access to information under the Freedom of Information (Scotland) Act 2002 came into effect on 1 January 2005.
- 4.5 Public authorities are required to adopt and maintain a Publication Scheme setting out the classes of information available and the manner in which they intend to publish the information, and whether a charge will be made for the information. The purpose of a Publication Scheme is to ensure information is available, without the need for a specific request. Schemes are intended to encourage organisations to publish more information pro-actively and to develop a greater culture of openness. Local Authorities are required to have an approved Publication Scheme in place. The Dundee City Council scheme can be easily found on the Dundee City Council website.
- 4.6 Information not available through the Publication Scheme may be available on written request. The Freedom of Information (Scotland) Act 2002 is enforced by the Scottish Information Commissioner. The Scottish Information Commissioner is responsible for the approval of Publication Schemes for Scotland under the Freedom of Information (Scotland) Act 2002.
- 4.7 Dundee City Council is deemed to be a public authority under the Freedom of Information (Scotland) Act 2002.

## 5.0 STRUCTURE

- 5.1 The Depute Chief Executive (Support Services) is the Freedom of Information Officer. There is an interdepartmental group of officers who form the Freedom of Information Liaison team (FOIL). Members of FOIL fit Freedom of Information work in with their core duties.
- 5.2 The Legal Manager oversees the process and checks all responses to requests
- 5.3 Much of the information necessary to comply with freedom of information requests is held by departments and staff across the Council are involved in processing these requests.

## 6. PERFORMANCE

- 6.1 Figure 1 details the source of the current workload.

FoISA requests 31/08/06 to 31/08/07

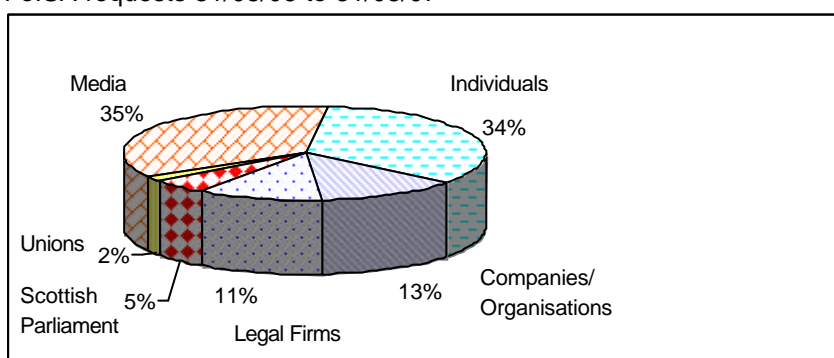


Figure 1

Figure 2 shows that the number of FoISA requests dropped significantly after the first few months of the legislation in 2005 and has a drop, on average, from 40 per month in 2006 to 33 per month currently.

Requests	
2005	557
2006	488
2007 (8 months)	264

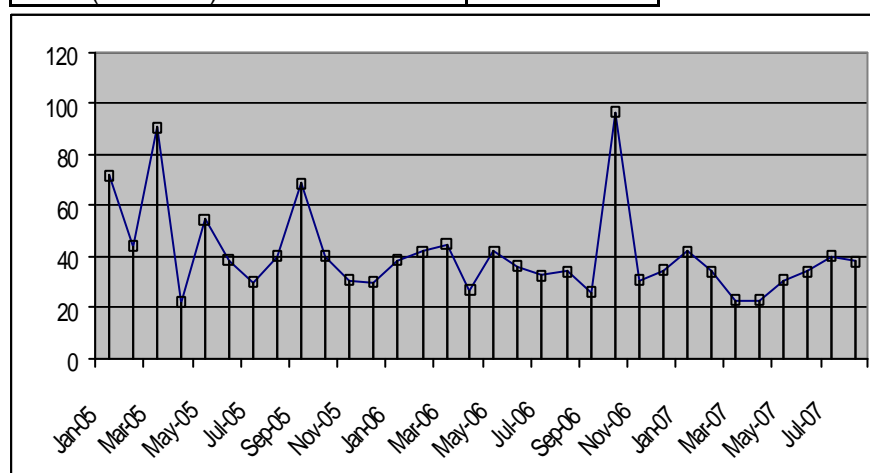


Figure 2

- 6.2 No additional funding has been provided to Dundee City Council to deal with processing of freedom of information requests and the costs have to be met from the Council's cash limited revenue budget. This reduces the sum available for front line services to the community.

## **7.0 REQUESTS**

- 7.1. Requests for information under the Freedom of Information (Scotland) Act 2002 are received in a number of ways including email, letter, fax and online website form. The Freedom of Information Liaison team has responsibility for the day-to-day management of the processes in the council including the receipt, collation, validation and reply to received requests within the 20 working day statutory period.
- 7.2 The Freedom of Information Officer has responsibility for the upkeep of the Council's publication scheme.
- 7.3 On receipt of requests FOIL assess them and cost and research the matter in preparation for any public interest test and any exemptions that may apply.
- 7.4 The FOIL team liaise directly with Divisions and Departments to ensure full capture of all information which is held relative to the request. The information is thereafter considered in accordance with the legislation and a decision is made as to what, if anything can be released to the applicant. The Legal Manager issues the formal response centrally.
- 75 Legislation allows 20 working days for requests to be processed and responded to.

## **8.0 PROCESS**

### **8.1 Reviews**

- 8.2. Freedom of Information legislation allows for an applicant to request a review of a decision not to release information. The Chief Executive undertakes this process.

### **8.3 Appeals**

- 8.4 Freedom of Information legislation allows for an applicant to appeal a decision not to release information following a review. The Scottish Information Commissioner deals with appeals with documentation being prepared by the Legal Manager.

## **9.0 COST**

- 9.1 It is not possible to provide accurate figures on the total cost of servicing freedom of information requests. The following however gives an indication of the direct costs associated with this legislative requirement.
- 9.2 No staff have been employed directly to deal with Freedom of Information requests. Members of the FOIL team, in addition to their core duties, have been diverted to spend time processing requests and it is estimated that this has amounted to £150,000.
- 9.3 It is estimated time spent by staff in other departments across the Council in researching and collating information together to respond to these requests equates approximately to a further £100,000 per annum. These costs do not include the cost of reviewing decisions not to release information.
- 9.4 The Council is allowed to charge a fee according to a pricing structure, but the fee chargeable does not cover this council's costs. Although a request that costs over £600 can be refused, the maximum fee that the council could charge for £600 of research would be £50.

## **10.0 EXAMPLES OF QUESTIONS**

- 10.1 The following list provides examples of recent questions received by the Council.
- 131 requests for planning information from a single legal firm
  - 64 separate requests from a single journalist requesting details of any incidents involving a knife or other offensive weapon in Dundee schools
  - Violence in Schools

- Riding Schools and centres
- Car parking eg Tickets/Income
- Road/Carriageway Maintenance and Inspection
- Road Accident information
- Street Lighting
- Anti-Social Behaviour particularly in Schools
- Staffing structures of departments
- PHD student requiring disclosure tables received by trustees of DCC Tayside Superannuation funds.

#### **11.0 POLICY IMPLICATIONS**

This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues.

#### **12.0 CONSULTATIONS**

The Chief Executive, Depute Chief Executive (Finance) and Head of Finance.

#### **13.0 BACKGROUND PAPERS**

None.

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