
Report to Scrutiny Committee

Date: 9th September 2010

Subject: Freedom of Information - Update (January to June 2010)

Report by: Head of Strategy & Customer Services

1.0 Purpose

- 1.1. The purpose of this periodic report is to present an overview of Freedom of Information requests (FOIs) received across the Council during the first 6 months of 2010. Details from the last two review periods are presented to allow for comparison and to aid analysis.
- 1.2. The report presents management information on the volume of enquiries, the source of these enquiries, and the performance of the Council in responding to enquiries received.

2.0 Recommendations

- 2.1. The report is provided for information and it is recommended that the Committee members note the contents.

3.0 Considerations

- 3.1. The Council is experiencing a period of structural change. The period covered in this report spans the implementation of a Services structure review. For ease of reference, the statistics are presented in relation to the Service structure that was in operation prior to April 2010. Future reports will reflect the new structure and, in the short term, this will make comparison and trend analysis less accurate.

Freedom of Information Overview

- 3.2. The Freedom of Information (Scotland) Act 2002 (the Act) sets out a 3 stage process for FOI resolution.
- 3.3. The initial information request, or first stage, allows twenty working days for each FOI to be answered.
- 3.4. Anyone who requests information from the Council is entitled, as part of the regulated procedures, to ask for an internal review of the process (second

stage) if they fail to receive a response, or the response received is considered to be unsatisfactory in some way. As with the first stage, there is a twenty working day time limit for the Council to respond once it has received a review request.

- 3.5. Should an individual remain dissatisfied after receiving the result of the internal review (or where no review response is provided), they have the right to appeal to the Scottish Information Commissioners Office (SIC) (the third stage).

Comment on the Statistics (January to June)

- 3.6. The Council received 365 FOI requests during the six months between January and the end of June 2010. Tables 1 & 2 in the Appendix 1 (attached) detail the breakdown of FOI enquiries by Service, and by source of request.
- 3.7. In the previous 6 monthly report to Committee, 324 enquiries were received (a volume increase of 12.7% over the period).
- 3.8. Requests from politicians (MPs, MSPs) continue to increase, as do those received from commercial businesses. The most significant increase (internal/staff requests) is due primarily to issues relating to the implementation of the Single Status programme. Most of the 38 requests on this topic were received in January and February, continuing the upward trend for the same reason over the last two months of 2009.
- 3.9. With the completion of the single status informal review process scheduled for late summer, it is possible that there could be a further increase in freedom of information requests relating to this topic.
- 3.10. This increase in requests received during the last six months has impacted principally on Corporate Development Services (HR and the Single Status Team). The ability to respond within the required timescale was reduced and, as a consequence, a number of the FOI requests were not responded to within time.
- 3.11. This was the Council's first experience of a heightened demand for information on a single topic area, and some key lessons can be taken from it:
 - Any potentially topical interest decisions or actions planned by the Council could generate peak volumes of information requests being received. As part of the project planning process, Services must consider the potential for public interest, and the likely service impact.
 - Wherever possible, during project preparations, plans for the structured 'publication' of as much related information as possible should be considered as a part of the public awareness strategy. Advance preparations could help minimise the call on resources at a later stage.
 - Where there is an identified likely increase in the receipt of information requests, Service managers must identify sufficient resources to ensure that appropriate responses can be provided within the statutory timescale.

To assist the process, Service managers and key staff will be reminded of the content and purpose of the existing Publication Scheme, and the corporate commitment to openness will be reinforced.

Enquiries Received - Details and Performance

- 3.12. Clackmannanshire Council received 365 formal information requests in this reporting period. Table 3 provides a breakdown of the total by sub-Service area. While the majority were answered within the timescale, 19 (5.2%) were dealt with outwith the set time limits.
- 3.13. The Service detail shows that Development & Environment Services and Chief Executive's Service had 1 overdue enquiry each. Services to People had 3, and Corporate Development Services had the remaining 14. The majority (9) of those assigned to Corporate Development were in relation to enquiries to do with single status. Table 4 in the Appendix provides a breakdown of all the enquiries that were not answered within the set timescale.

Internal Reviews

- 3.14. Internal reviews are necessary where the individual requesting information does not receive a response, or where they deem the response to be deficient in some way. Throughout the reporting period there were 15 review requests received. (This equates to 4.1% of all requests received, in comparison to 2.5% of the total for the previous 6 months). Review requests were received in relation to services provided by Corporate Development Service (11 - all relating to Single Status), Chief Executive's Service (3) and Development and Environmental Services (1).
- 3.15. The reasons behind the review requests varied - 6 were related to lack of a response within 20 days; 8 related to cases where the individual was not satisfied with the response given; and 1 cited both lack of a response within timescale, and dissatisfaction with the response once they did receive it. (Table 5 in the Appendix shows further detail of the reviews).
- 3.16. In general terms, with the exception of the enquiries relating to the single status project, the low number of reviews conducted indicates that the Council has been effective not only in responding within timescales set down by the Act, but also in providing suitable responses that are accepted by those seeking access to information.

Appeals to the Commissioner

- 3.17. Where an internal review fails to satisfy an individual, they have the right to appeal to the Scottish Information Commissioner (SIC).
- 3.18. There was one appeal against Clackmannanshire Council concluded by the SIC during this 6 month reporting period. This appeal was directly related to the single status project. The enquirer in this case did not receive a response to their original enquiry within the set 20 day timescale. They requested an internal review and, although the response did provide some information, the enquirer remained dissatisfied in that they believed that they had not received all the information requested. Additionally, the review response

itself was outwith the time limit. The appeal Decision from the Commissioner was in favour of the appellant. No resulting action was required by the Council as, by the time the case was concluded, all information requested had been shared with the individual requesting it.

- 3.19. This appeal was only the second since the introduction of the Act in 2005 where the SIC has been called upon to assess an appeal against Clackmannanshire Council. At the time of writing, however, it is known that the SIC is actively considering a further appeal (from a different individual, but still single status related). The generally low number of referrals to the SIC is reassuring.

Costs

- 3.20. There are no separate budget allocations for the management of FOI requests. In order to reasonably measure the cost of managing and responding to information requests, officers across all Services are required to record estimates of the time taken to respond to each enquiry. The time taken is then calculated against an Officer's grade to produce an indication of cost to the Council. The resulting information showed that the total estimated cost of managing the 365 enquiries received in six months was £24,254. The estimated cost for the previous six months for 324 enquiries was £23,412. It should be noted that many factors can impact on the cost, for example, the complexity of individual requests and enquiries, the related structure of the records that require to be checked, the volume of records that require to be checked, the volume of information that has to be extracted from identified records, and the knowledge of the staff delivering the service.
- 3.21. One prime opportunity to reduce demands on staff time (and hence costs) is to follow a pro-active approach to publishing increasing volumes of information for general public consumption. This 'self service' approach is likely to reduce the number of direct formal information requests, and the amount of time that requires to be devoted to those that do appear..

Conclusion

- 3.22. With the exception of the activity peaks resulting from requests for information from single status enquiries, and the following referral to the SIC, it would appear that the Council's FOI procedures are working well. However, where advance planning and preparations for information management are possible, it may result in a potential to reduce the demand for staff to be devoted to responding to information requests.

4.0 Sustainability Implications

- 4.1. None

5.0 Resource Implications

5.1. *Financial Details*

5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

5.3. *Staffing*

5.4. There are no direct staffing implications

6.0 Exempt Reports

6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities 2008 - 2011** (Please tick)

- The area has a positive image and attracts people and businesses
- Our communities are more cohesive and inclusive
- People are better skilled, trained and ready for learning and employment
- Our communities are safer
- Vulnerable people and families are supported
- Substance misuse and its effects are reduced
- Health is improving and health inequalities are reducing
- The environment is protected and enhanced for all
- The Council is effective, efficient and recognised for excellence

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations? Yes No

9.0 Legality

9.1 In adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Appendix 1 (4 pages) - **FoI Management Information**

11.0 Background Papers



11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes (please list the documents below) No

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**Freedom of Information Management Statistics
January to June 2010**

TABLE 1

Source of Request (Split by Source Type)	Current Period		Previous Periods			
	Jan to June 2010		July to Dec 09		Jan to June 09	
Commercial Business	53	15%	29	8.9%	34	20%
Individual Citizens #	117	32%	108	33.3%	21	13%
Other Public Bodies	21	6%	26	8%	24	14%
Politicians	53	15%	48	14.9%	17	10%
Press	56	15%	77	23.9%	49	29%
Solicitors	12	3%	5	1.5%	10	6%
Internal/Staff	44	12%	26	8%	12	7%
Unidentified Source	9	2%	5	1.5%	34	20%

includes some Single Status requests that have not been classified as Internal/Staff.

TABLE 2

Source of Request	Split by Source Type and Service Area									
	CE		CD		D&E		S2P		Non- council*	
Commercial Business	4	7%	19	16%	21	28%	9	9%	0	0%
Individual Citizens	27	42%	42	34%	22	29%	26	25%	0	0%
Other Public Bodies	5	8%	7	6%	5	7%	4	4%	0	0%
Politicians	5	8%	4	3%	6	7%	38	37%	0	0%
Press	15	23%	7	6%	13	17%	20	20%	1**	100%
Solicitors	2	3%	0	0%	8	11%	2	2%	0	0%
Internal	0	0%	41	34%	1	1%	1	1%	0	0%
Unidentified Source	6	9%	1	1%	0	0%	2	2%	0	0%
	64		122		76		102		1	

* Non-council refers to FOI requests received, logged on the database and transferred to the correct external organisation.

** One enquiry was logged, but was determined as being wrongly addressed to the Council

TABLE 3

Service Area	No. of information requests received	% of total	% of Service	July to Dec 2009: No. of requests rec'd	Previous 6 months: No. of requests rec'd
Chief Execs	64**	18	100	57	67
Administration & Legal Services	55	15	86	51	54
Emergency & Planning	0	0	0	2	1
Strategic Policy	9	3	14	3	11
Chief Exec	0	0	0	1	1
Corporate Development	122	33	100	127	63
BITS	11	3	9	10	16
Finance	32	9	26	26	22
Human Resources	79	21	65	91	24
Not Known	0	0	0	0	1
Development & Environment	76	21	100	51	61
Development	20	6	26	16	27
Environment	39	11	51	17	25
Property	15	4	20	14	7
Strategy	2	>1%	3	3	1
Not Known	0	0	0	1	1
Services to People	102	28	100	88	118
Education	62	17	61	43	67
Housing	10	3	10	14	21
Social Services	30	8	29	31	30
Non Council (transferred)	1	>1%	100	1	0
Total	365			324	309

** (The total for Admin & Legal Services includes ALL of the enquiries that require information to be sourced Council-wide)

TABLE 4

	Overdue Enquiries	Enquiry Topic
Service:		
Development & Environmental		Employment of agency staff
Chief Executives		Licensing of gaming machines
Services to People		Gaelic Language plan
		Scottish qualifications provided
		No of empty properties (social and private housing)
Corporate Development		Single status
		Single status
		Single status
		Single status
		Single status
		Single status
		Single status
		Single status
		Expenditure of IT/ICT
		Salary costs
		Process for recruitment of agency/temp workers
		Shares held by Council
		Purchase of external training

TABLE 5

Reviews			
Service:	Reason for Review:	Topic:	Outcome:
Development & Environmental	Not satisfied with response	Number of planning applications for amateur radio antennas	Review upheld. Information supplied
Chief Executives	Not satisfied with response	Environmental Information relating to property	Original decision to withhold documents upheld
	Not satisfied with response	Financial information regarding funding of charitable organisations	All information originally released.
	Not satisfied with response	European legislation	Original decision upheld. Information not held
Corporate Development	Outwith time	Single Status	Review upheld. Information released
	Outwith time	Single Status	Review upheld. Information released
	Outwith time	Single Status	Review upheld. Information released
	Not satisfied with response	Single Status	Review upheld. Information released
	Not satisfied with response	Single Status	Review upheld. Information released
	Outwith time & not satisfied with response	Single Status	Review upheld. Information released
	Not satisfied with response	Single Status	Review upheld. Information released
	Outwith time	Single Status	Review upheld. Information released
	Outwith time	Single Status	Review upheld. Information released
	Not satisfied with response	Single Status	Review upheld. Information released
	Outwith time	Single Status	Review upheld. Information released