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<b>Report To:</b>	<b>Policy &amp; Resources Committee</b>	<b>Date:</b>	<b>15 November 2022</b>
<b>Report By:</b>	<b>Interim Director, Finance &amp; Corporate Governance</b>	<b>Report No:</b>	<b>LS67/22</b>
<b>Contact Officer:</b>	<b>Carol Craig-McDonald</b>	<b>Contact No:</b>	<b>01475 712725</b>
<b>Subject:</b>	<b>Freedom of Information Annual Report 2021</b>		

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## **1.0 PURPOSE AND SUMMARY**

- 1.1  For Decision  For Information/Noting
- 1.2 This is an agreed routine annual monitoring report to provide the Policy & Resources Committee with details of Freedom of Information (FOI) requests received by the Council during the period 1 January – 31 December 2021.
- 1.3 The Freedom of Information (Scotland) Act 2002 (FOISA) came into effect on 1 January 2005. Under FOISA, a person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority, subject to certain conditions and exemptions which are set out in the FOISA. The Environmental Information (Scotland) Regulations 2004 (the EIRs) also came into force on 1 January 2005 and give the public rights of access to environmental information held by Scottish public authorities.
- 1.4 The Council has adopted the Model Publication Scheme 2016 which was produced and approved by the Scottish Information Commissioner on 29 March 2016. The Model Publication Scheme (MPS) and the Council's Guide to information available through the MPS are on the Council's website at <http://www.inverclyde.gov.uk/>

## **2.0 RECOMMENDATION**

- 2.1 It is recommended that the Committee:
- (1) Notes the information provided in relation to FOI requests received by the Council during 2021.
  - (2) Approves the publication of the annual performance report on the Council's website.

**Alan Puckrin**  
**Interim Director, Finance & Corporate Governance**

### **3.0 BACKGROUND AND CONTEXT**

- 3.1 FOISA provides a right of access to recorded information held by Scottish public authorities subject to certain conditions and exemptions which are set out in the FOISA.
- 3.2 The Council has adopted the Model Publication Scheme 2016 which was produced and approved by the Scottish Information Commissioner on 29 March 2016. The Model Publication Scheme (MPS) and the Council's Guide to information available through the MPS are on the Council's website at <http://www.inverclyde.gov.uk/>.

The Council's Guide provides information on:-

- what information is available (and what is not available) in relation to each class;
  - charges that may be applied;
  - how to find the information easily;
  - contact details for enquiries and help with accessing the information; and
  - how to request information held by the Council that has not been published.
- 3.3 An applicant for information has the right to ask the Council to review its action and/or decisions if they are dissatisfied with the way in which the Council has dealt with the request for information. If still dissatisfied with the review decision, or if the review decision has not been received within 20 working days, an applicant may appeal to the Scottish Information Commissioner.
- 3.4 The Scottish Information Commissioner has since April 2013 asked all Scottish public authorities to provide statistics on FOI requests and requests under the EIRs, the number of Subject Access Requests received, details of reviews dealt with and exemptions/exceptions applied on a quarterly basis. These statistics are available on the Scottish Information Commissioner's website at It's Public Knowledge - <http://www.itspublicknowledge.info/> .
- 3.5 Although the Scottish Information Commissioner has no locus in relation to Subject Access Requests (SARs), this information is collected to see how the number of FOI and EIR requests authorities receive compares to the number of SARs received.

### **4.0 PROPOSAL**

- 4.1 During 2021, a total of 929 FOI requests, 8 requests under the EIRs and 55 SARs were received. The annual report on performance during 2021 is appended to this report.
- 4.2 Section 2 of the appended report provides a comparison with the number of FOI and EIR requests received by the Council from 2016 to 2021. Members will note that, in comparison with volumes received during 2020, that there has been a 7.9% decrease in the overall number of FOI/EIR requests dealt with by the Council, this is the second consecutive year that there has been a decrease in the number of information requests received. The COVID-19 pandemic has had an impact on the number of information requests received.
- 4.3 Section 2 of the appended report details in full the source of applicants who submitted requests over the course of the year. The top three sources of requestors who submit FOI requests are recorded as Individuals at 42.9%, Commercial Firms at 18.3% and Media and Newspaper Sources at 15.7%.
- 4.4 The Council's responses to FOI and EIRs for on time, late and failed to respond rates, as well as percentages of key performance indicators which is used by the SIC when comparing performance of other Scottish local authorities, is detailed in section 4 of the appended report. The Council responded to 80% of information requests on time and had a failure rate of 20% for responding late or failing to

respond to information requests during 2021. The Council is presently working on improving the time taken to respond to requests, which has been impacted by some of the operational challenges faced as a result of the pandemic, this area.

- 4.5 FOI/EIR requests are dealt with within existing staff resources and are recorded and co-ordinated centrally by Legal & Democratic Services. In addition, Legal & Democratic Services deals with any requests which are specific to the service and all of the corporate requests, the preparation and submission of quarterly statistical returns to the SIC and quarterly monitoring reports to the CMT. This is supported by staff within the directorates who deal with service specific requests.
- 4.6 Quarterly reports on progress throughout the year are submitted to the CMT for overall review and any actions on a service specific basis and to ensure awareness of the impact on staff resources.
- 4.7 In order to improve response times and the quality of FOI responses, a specific Corporate Development Improvement Plan (CDIP) improvement action was developed in 2020 and the CDIP was completed in December 2021.
- 4.8 The new information management system Workpro was implemented within all services on 1 November 2021. This was followed by training to increase knowledge across all officers who deal with FOIs. Refreshed guidance is being finalised for issuing to officers.
- 4.9 During 2020 and continuing into 2021, the number of late responses and failures to respond requests had steadily increased to a level that was a concern for the Council. The focus of officers had been stretched and resources were being extended to cover a wider remit during the pandemic. Coming out of the height of pandemic focus on timescales required to be refreshed and revisited with all officers involved in the FOI process within all services. Training was delivered to relevant officers in services to focus the attention on the timescales and technical aspects of the procedure.
- 4.10 Additionally in January 2022, a new FOI workflow summary was developed to improve officer understanding of the FOI process and to introduce escalation points to assist with improving focus on the response timescales being met and the quality of responses being improved. There is more stringent measurements in place within services to ensure the appropriate timely actions are taken by services when responding to requests. The FOI workflow process summary also clearly defines the roles and responsibilities of officers at key stages of the process timescales. The new stringent measures sits alongside a new Day 15 report that is issued weekly to senior managers to highlight cases that may require assistance from managers in order to expedite a prompt response to requests. The CMT along with the Information Governance Team are supporting the focus on key actions required each week, which have assisted in the improving performance in subsequent quarterly performance statistics to date.
- 4.11 In February 2022, a Level 1 Intervention was opened by SIC with the Council in connection with its 2021 submitted statistics. This action was taken by SIC as a result of concerns with the Council's recording for both late responses and requests where the Council failed to respond, which was at a rate of 29% or more in quarter 1 and 20% or more in quarter 2 of 2021. The aim of the intervention is to support the Council to improve its performance with regard to providing timely responses to information requests. In replying to this intervention the Council provided SIC with a written response, along with supporting information, including details of actions taken to address non-compliance with the statutory timescales required under FOISA.
- 4.12 The SIC noted that the Council's response was comprehensive, and also noted that the Council's quarter 3 submission in 2021 for both late responses and failures to respond was at a rate of 19.5%, therefore demonstrating a continued improvement in response rates. The SIC are seeking to see a continuation of this downward trend in the next couple of quarterly submissions to match the significant steps the Council has taken to improve performance. The table below shows further reduction in the number of late and not responded to requests as well as the noted increase in the number of on time

responses issued up to the most current period's statistics. This shows the continuing improvement desired for this performance indicators. A full update on this will be provided in the 2022 Annual Report, but is included here given it relates to service performance in 2021.

Period	FOI/EIRs responded to within Statutory Timescale	% On time	FOI/EIRs responded to out with Statutory Timescale	Requests not responded to	% of failed to respond rate
Jan - Mar 2021	152	76%	32	0	23%
Apr - Jun 2021	155	60%	70	0	37%
Jul – Sept 2021	180	79.6%	43	3	20%
Oct – Dec 2021	269	80.5%	43	3	19.4%
Jan – Mar 2022	324	90%	33	3	10%
Apr – Jun 2022	344	91.5%	29	2	9%

## 5.0 IMPLICATIONS

5.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO	N/A
Financial		x	
Legal/Risk	x		
Human Resources		x	
Strategic (LOIP/Corporate Plan)		x	
Equalities & Fairer Scotland Duty			x
Children & Young People's Rights & Wellbeing			x
Environmental & Sustainability			x
Data Protection			x

## 5.2 Finance

All costs associated with dealing with FOI and EIR requests, reviews and appeals and SARs are contained within existing budgets. Information on the time spent and estimated costs (based on the mid-point of the relative salary grade) of dealing with FOI and EIR requests across the Council has been collated from May 2016. Services are conscious of the need to accurately record the costs incurred and guidance and support are offered to assist in ensuring the Council has a clear view of the resources utilised. The time spent on and estimated cost of dealing with FOI and EIR requests during January-December 2021 is set out in the table below and shows a decrease in estimated hours and costs and that a lower number of requests was also received for the second consecutive year.

There has been a deterioration in the capturing of this information by services which has resulted in 88 FOIs where the time and grade information has not been updated, even though reminders were issued to remind the service of the requirement. Therefore, the undernoted figures are based on the figures recorded and using an average calculation for the average time and average cost associated with dealing with an FOI for those cases that did not have the information recorded to give a representative view of time and estimated costs. Further reminders will be issued to officers involved in the process for discussion within services to remind them of the importance of supplying this information at time of responding to the FOI request.

Period	No of Requests	Time Spent	Estimated Cost
January - December 2017	1281	1814.4 hours	£30,112.93
January – December 2018	1305	1412.20 hours	£23,953.28

<b>January – December 2019</b>	1298	1934.95 hours	£39,122.34
<b>January – December 2020</b>	1042	1398.02hours	£29,553.44
<b>January – December 2021</b>	937	1222.34 hours	£24,919.80

The Freedom of Information (Scotland) Act 2002 makes a limited provision for refusing requests which incur an excessive cost, and partially for recharging those that would cost the authority more than £100 to process. The Environmental Information Regulations allows for full recharge of the cost of dealing with requests. During the period of this report 2 requests were refused on the grounds that answering them would exceed the statutory cost limit and 1 fees notice was issued, however did not progress as payment was not received.

#### One off Costs

<b>Cost Centre</b>	<b>Budget Heading</b>	<b>Budget Years</b>	<b>Proposed Spend this Report</b>	<b>Virement From</b>	<b>Other Comments</b>
n/a	n/a	n/a	n/a	n/a	n/a

#### Annually Recurring Costs/ (Savings)

<b>Cost Centre</b>	<b>Budget Heading</b>	<b>With Effect from</b>	<b>Annual Net Impact</b>	<b>Virement From (If Applicable)</b>	<b>Other Comments</b>
n/a	n/a	n/a	n/a	n/a	n/a

### 5.3 Legal/Risk

The Council is legally bound to comply with FOISA and the EIRs. The Scottish Information Commissioner has powers of enforcement which can be used where a public authority is consistently failing to comply with the legislation.

### 5.4 Human Resources

There are no human resource implications arising from this report

### 5.5 Strategic

This report helps deliver Corporate Plan Organisational Priority 9 – to deliver services that are responsive to community needs and underpinned by a culture of innovation, continuous improvement and effective management of resources.

## 6.0 CONSULTATION

6.1 None.

## 7.0 BACKGROUND PAPERS

7.1 None.

## Freedom of Information

Report on information requests received from  
1 January 2021 to 31 December 2021

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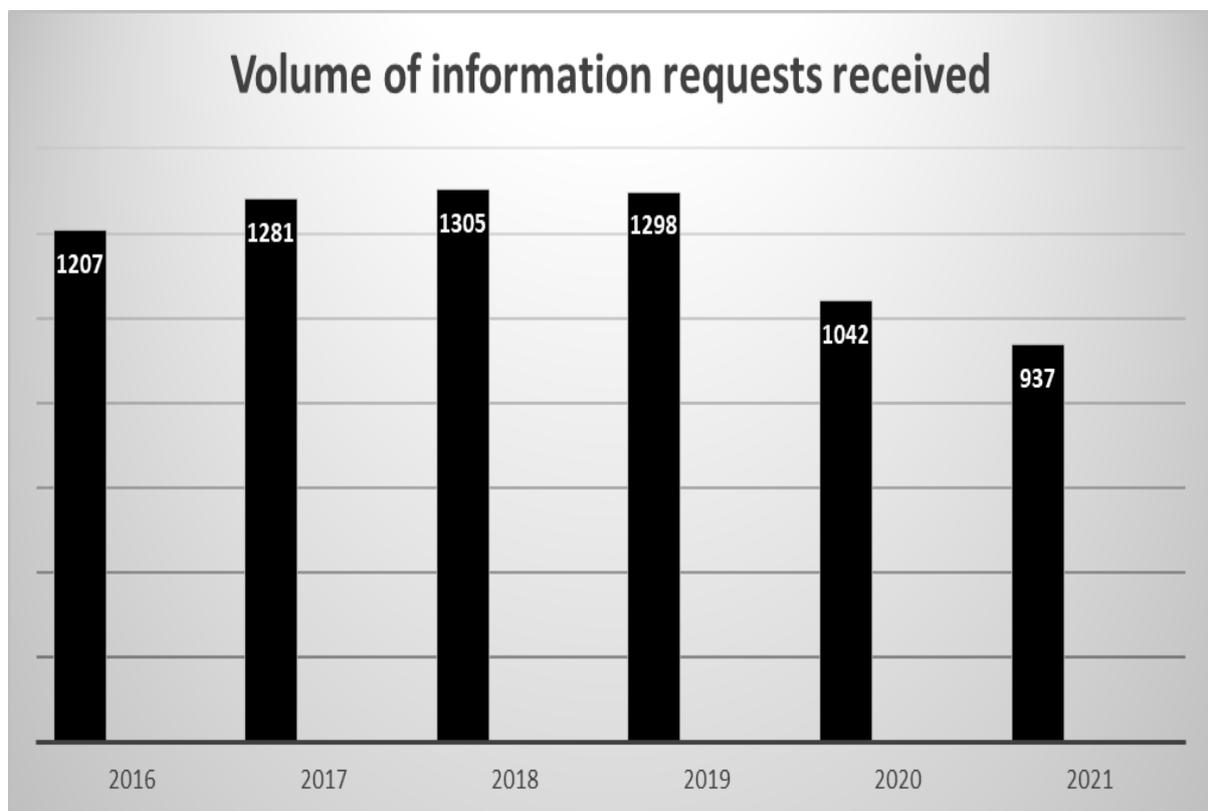
## 1. Introduction

This report outlines the volumes of information requests received during the period 1 January to 31 December 2021 and provides a performance review across the Council's processing of these requests. It also considers the use of exemptions, fees, reviews and appeals.

The Freedom of Information (Scotland) Act 2002 (FOISA) and the associated Environmental Information Regulations 2004 (EIRs) provide a statutory right to access information that is held by Scottish Public Authorities. FOISA encourages openness and accountability and helps to build trust between the Council and the public it serves.

## 2. Volume of requests

Inverclyde Council (including the HSCP) received 937 requests for information in 2021 compared to 1042 received in the previous year. This figure represents a 7.9% decrease in the number of information requests received and for the second consecutive year, the Council has seen a decrease in the requests being received. This total comprised of 929 requests under FOISA and 8 under the EIRs. The Council also received 55 Data Subject Access Request (SARs).



### 3. The Nature of requests

The requests for information have been received from a varied range of sources as noted in the table below. The top three sources of requests have been received from individuals - 42.9%, commercial firms - 18.3% and media and newspaper sources - 15.7%.

Source of request	% of requests
Individual	42.9%
Commercial Firm	18.3%
Media / Newspaper	15.7%
Parliamentary Assistant	9.28%
Charity / Third Sector	4.2%
Legal Firm	2.5%
Other	1.3%
Students	1.28%
Trade Union	1.17%
Researchers	1.06%
Client	0.4%
Employee	0.3%
Political Party MSP	0.1%

### 4. Performance

The table below compares the Council's responses to FOIs and EIRs for on time, late and failure to respond rates as well as percentages of key performance indicators which are used by the SIC when comparing performance of other Scottish local authorities. The Council responded to 80% of information requests on time and had a failure rate of 20% for responding late or failing to respond to information requests during 2021. An increase is evident in the number of FOIs/EIRs, which were responded to late when comparing the key performance indicators in 2020. The Council ended the year with 4 requests, which were not responded to, and 188 requests were responded to late.

Year	No of FOIs	No of EIRs	Total No of FOIs/ EIRs	No of Requests Responded On time (20 days)	No of Requests Responded Late (over 20 days)	No of Failed to Respond to Request
2016	1193	14	1207	1010	151	0
2017	1265	16	1281	1063	95	0
2018	1273	32	1305	1042	197	0
2019	1282	16	1298	1144	119	0
2020	1009	33	1042	820	187	15
2021	929	8	937	748	188	4

During 2020 and continuing into 2021, the number of late responses and failures to respond requests had steadily increased to a level that was a concern for the Council. The focus of officers had been stretched and resources being extended to cover a wider remit during the pandemic. Coming out of the height of pandemic focus on timescales required to be refreshed and revisited with all officers involved in the FOI process within all services. Training was

delivered to relevant officers in services to focus the attention on the timescales and technical aspects of the procedure.

Additionally in January 2022, a new FOI workflow summary was developed to improve officer understanding of the FOI process and to introduce escalation points to assist with improving focus on the response timescales being met and the quality of responses being improved. The summary also clearly defined the roles and responsibilities of officers at key stages of the process timescales. There are more stringent measurements in place within services to ensure the appropriate timely actions are taken when responding to requests. The more stringent measures sits alongside a new Day 15 report that is issued weekly to senior managers to highlight cases that may require assistance from managers in order to expedite a prompt response to requests. The CMT along with the Information Governance Team supporting the focus on key actions required each week have assisted in the improving performance in subsequent quarterly performance statistics to date.

#### **FOI Annual Data FOI performance based on response outcomes**

<b>On time Response Performance numbers and %</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Number of responses issued within timescales during the year</b>	1010	1063	1042	1144	820	748
<b>Percentage of requests answered within timescale</b>	86%	92%	84%	91%	80%	80%

<b>FOI not responded to failure rate numbers &amp; %</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Number of request where we failed to respond during the year</b>	0	0	0	0	15	4
<b>Number of responses issued late during the year</b>	151	95	197	119	187	188
<b>Failure rate for responses issued during the year%</b>	14%	8%	16%	9%	20%	20%

In February 2022, a Level 1 Intervention was opened by SIC with the Council in connection with its 2021 submitted statistics. This action was taken by SIC as a result of concerns with the Council's recording for both late responses and requests where the Council failed to respond, which was at a rate of 29% or more in quarter 1 and 20% or more in quarter 2 of 2021. The aim of the intervention is to support the Council to improve its performance with regard to providing timely responses to information requests. In replying to this intervention the Council provided SIC with a written response, along with supporting information, including details of actions taken to address non-compliance with the statutory timescales required under FOISA.

The SIC noted that the Council's response was comprehensive, and also noted that the Council's quarter 3 submission in 2021 for both late responses and failures to respond was at a rate of 19.5%, therefore demonstrating a continued improvement in response rates. The SIC are seeking to see a continuation of this downward trend in the next couple of quarterly submissions to match the significant steps the Council has taken to improve performance. The table below shows further reduction in the number of late and not responded to requests as well as the noted increase in the number of on time responses issued up to the most current period's statistics. This shows the continuing improvement desired for these performance

indicators. A full update on this will be provided in the 2022 Annual Report, but is included here given it relates to service performance in 2021.

Period	FOI/EIRs responded to within Statutory Timescale	% On time	FOI/EIRs responded to out with Statutory Timescale	Requests not responded to	% of failed to respond rate
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Jan – Mar 2022	324	90%	33	3	10%
Apr – Jun 2022	344	91.5%	29	2	9%

## 5. Exemptions

The majority of requests which have been responded to have resulted in full disclosure of all of the requested information in 745 (80%) of information requests. However, for some requests some information is exempt from disclosure in terms of FOISA or the EIRs. In such instances, FOI or EIR exemptions and exceptions are applied. The table below provides further information as to the use of these exemptions and exceptions. Partial disclosures, where some but not all information was released, accounts for 33 (3.5%) of information requests. The Council relied on exemption or exceptions for all requested information in 85 (9%) of information requests received although this is largely attributable to information sought not being held by the Council or being otherwise accessible.

Section	Exemption / Exception Cited	No of times cited
Section (12)	Excessive cost of compliance	2
Section (17) Regulation 10(4)a	Information not held	50
Section (25) Regulation 6(1)b	Information otherwise accessible	13
Section (26)	Statutory Prohibition	0
Section (27)	Future Publication	0
Section (30)	Substantial prejudice	4
Section (33), Regulation 10(5)e	Commercial interests and the economy	3
Section (34)	Investigations	0
Section 35 Regulation 10(5)b	Law Enforcement	8
Section (36) Regulation 10(5)d	Confidentiality	4
Section (39)	Health and Safety	0
Section (38) Regulation 11	Personal Information	9
Regulation 10(5)f	Interests of the supplier of information	0
Regulation 10 (4)c	Request formulated in too general a manner	0

## 6. Fees

FOISA makes limited provision for refusing requests, which incur an excessive cost and for partially recharging those that would cost the authority more than £100.00 to process. The EIRs allow for the full recharge of the cost of dealing with requests. The table below sets out the number of requests where fees notices were issued. If the applicant does not pay the fees notices within a certain period of time, the request will not be progressed. The Council tends to release the information in the majority of cases without a fee. In relation to EIRs, services are encouraged to charge for information particularly when a significant amount of information is required. The Council has a charging schedule on the Council's website to assist officers with this.

Quarterly Period	No of Requests where fees notices issued	No of requests not progressed due to fee notice not paid	No of Requests where fees notice paid
Oct to Dec 2020	0	0	0
Jan to Mar 2021	0	0	0
Apr to Jun 2021	1	0	0
Jul to Sept 2021	0	0	0
Oct to Dec 2021	0	0	0

## 7. Time and Cost Involved in Responding to FOIs

All costs associated with dealing with FOI/EIR requests, reviews and appeals and Data Subject Access Requests are contained within existing budgets. However, information on the time spent and estimated cost (based on the mid-point of the relative salary grade) of dealing with FOI and EIR requests across the Council has been collated since May 2016.

The time spent and estimated cost of dealing with FOI and EIR requests during 1 January to 31 December 2021 is set out in the table below with a comparison data for the same period in previous years. There has been a deterioration in the capturing of this information by services is evident from the recorded figures. Therefore, the undernoted figures are based on the figures recorded and using an average calculation for the average time and average cost associated with dealing with an FOI for those cases that did not have the information recorded to give a representative view of time and estimated costs. Further reminders will be issued to officers involved in the process for discussion within services to remind them of the importance of supplying this information at time of responding to the FOI request

Period of Time	Time spent in hours	Estimated costs
1 January – 31 December 2017	1814.4 hours	£30,112.93
1 January – 31 December 2018	1412.20 hours	£23,953.28
1 January – 31 December 2019	1934.95 hours	£39,122.34
1 January – 31 December 2020	1398.02 hours	£29,553.44
1 January – 31 December 2022	1222.34 hours	£24,919.80

## 8. Reviews and Appeals

During 2021, of the 937 information requests received, the applicants formally asked the Council to review its decisions on 15 FOISA and 3 EIR requests. The table below outlines the outcome of the reviews. Applicants submitted appeals to the SIC in 8 cases. The SIC upheld the Council's decision on one appeal and did not uphold the Council's decision on the other appeal. 6 cases that were referred for a decision from the SIC were withdrawn by the applicant.

Type of review	Number of reviews
<b>No of requests for internal reviews</b>	15 FOISA & 3 EIRs
<b>Outcome of internal reviews:</b>	
- upheld the Council's decision	11
- partially upheld the Council's decision	5
- did not uphold the Council's decision	1
- internal review submitted outside of timescale	1
<b>Appeals to Scottish Information Commissioner (SIC)</b>	8
<b>Outcome of SIC Appeal:</b>	
-upheld the Council's decision	1
-did not uphold the Council's decision	1
-withdrawn by applicant	6

## 9. Conclusion

The Council's performance during 2021 was undoubtedly impacted by the Covid-19 pandemic last year. During the year, particularly when volumes were lower training was under taken to support FOI designated officers and those officers involved in responding to requests as well as training for the new Information Governance Management System (Workpro). It is anticipated that the recently implementation of a new system Workpro together with ongoing work on policy, procedures and training will continue to support the improvements required in the coming year's performance.

## Freedom of Information

Report on information requests received from  
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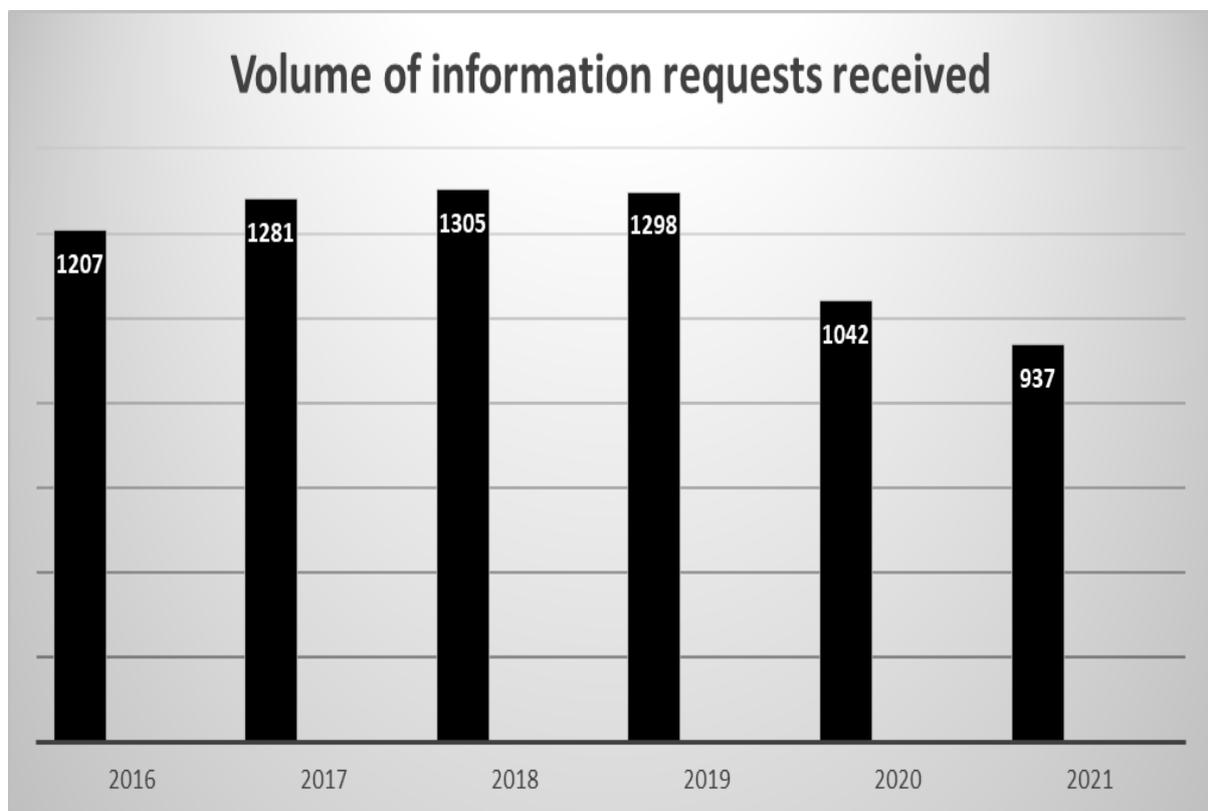
## 1. Introduction

This report outlines the volumes of information requests received during the period 1 January to 31 December 2021 and provides a performance review across the Council's processing of these requests. It also considers the use of exemptions, fees, reviews and appeals.

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## 2. Volume of requests

Inverclyde Council (including the HSCP) received 937 requests for information in 2021 compared to 1042 received in the previous year. This figure represents a 7.9% decrease in the number of information requests received and for the second consecutive year, the Council has seen a decrease in the requests being received. This total comprised of 929 requests under FOISA and 8 under the EIRs. The Council also received 55 Data Subject Access Request (SARs).



### 3. The Nature of requests

The requests for information have been received from a varied range of sources as noted in the table below. The top three sources of requests have been received from individuals - 42.9%, commercial firms - 18.3% and media and newspaper sources - 15.7%.

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Media / Newspaper	15.7%
Parliamentary Assistant	9.28%
Charity / Third Sector	4.2%
Legal Firm	2.5%
Other	1.3%
Students	1.28%
Trade Union	1.17%
Researchers	1.06%
Client	0.4%
Employee	0.3%
Political Party MSP	0.1%

### 4. Performance

The table below compares the Council's responses to FOIs and EIRs for on time, late and failure to respond rates as well as percentages of key performance indicators which are used by the SIC when comparing performance of other Scottish local authorities. The Council responded to 80% of information requests on time and had a failure rate of 20% for responding late or failing to respond to information requests during 2021. An increase is evident in the number of FOIs/EIRs, which were responded to late when comparing the key performance indicators in 2020. The Council ended the year with 4 requests, which were not responded to, and 188 requests were responded to late.

Year	No of FOIs	No of EIRs	Total No of FOIs/ EIRs	No of Requests Responded On time (20 days)	No of Requests Responded Late (over 20 days)	No of Failed to Respond to Request
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2017	1265	16	1281	1063	95	0
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2019	1282	16	1298	1144	119	0
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2021	929	8	937	748	188	4

During 2020 and continuing into 2021, the number of late responses and failures to respond requests had steadily increased to a level that was a concern for the Council. The focus of officers had been stretched and resources being extended to cover a wider remit during the pandemic. Coming out of the height of pandemic focus on timescales required to be refreshed and revisited with all officers involved in the FOI process within all services. Training was

delivered to relevant officers in services to focus the attention on the timescales and technical aspects of the procedure.

Additionally in January 2022, a new FOI workflow summary was developed to improve officer understanding of the FOI process and to introduce escalation points to assist with improving focus on the response timescales being met and the quality of responses being improved. The summary also clearly defined the roles and responsibilities of officers at key stages of the process timescales. There are more stringent measurements in place within services to ensure the appropriate timely actions are taken when responding to requests. The more stringent measures sits alongside a new Day 15 report that is issued weekly to senior managers to highlight cases that may require assistance from managers in order to expedite a prompt response to requests. The CMT along with the Information Governance Team supporting the focus on key actions required each week have assisted in the improving performance in subsequent quarterly performance statistics to date.

#### **FOI Annual Data FOI performance based on response outcomes**

<b>On time Response Performance numbers and %</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Number of responses issued within timescales during the year</b>	1010	1063	1042	1144	820	748
<b>Percentage of requests answered within timescale</b>	86%	92%	84%	91%	80%	80%

<b>FOI not responded to failure rate numbers &amp; %</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Number of request where we failed to respond during the year</b>	0	0	0	0	15	4
<b>Number of responses issued late during the year</b>	151	95	197	119	187	188
<b>Failure rate for responses issued during the year%</b>	14%	8%	16%	9%	20%	20%

In February 2022, a Level 1 Intervention was opened by SIC with the Council in connection with its 2021 submitted statistics. This action was taken by SIC as a result of concerns with the Council's recording for both late responses and requests where the Council failed to respond, which was at a rate of 29% or more in quarter 1 and 20% or more in quarter 2 of 2021. The aim of the intervention is to support the Council to improve its performance with regard to providing timely responses to information requests. In replying to this intervention the Council provided SIC with a written response, along with supporting information, including details of actions taken to address non-compliance with the statutory timescales required under FOISA.

The SIC noted that the Council's response was comprehensive, and also noted that the Council's quarter 3 submission in 2021 for both late responses and failures to respond was at a rate of 19.5%, therefore demonstrating a continued improvement in response rates. The SIC are seeking to see a continuation of this downward trend in the next couple of quarterly submissions to match the significant steps the Council has taken to improve performance. The table below shows further reduction in the number of late and not responded to requests as well as the noted increase in the number of on time responses issued up to the most current period's statistics. This shows the continuing improvement desired for these performance

indicators. A full update on this will be provided in the 2022 Annual Report, but is included here given it relates to service performance in 2021.

Period	FOI/EIRs responded to within Statutory Timescale	% On time	FOI/EIRs responded to out with Statutory Timescale	Requests not responded to	% of failed to respond rate
Jan - Mar 2021	152	76%	32	0	23%
Apr - Jun 2021	155	60%	70	0	37%
Jul – Sept 2021	180	79.6%	43	3	20%
Oct – Dec 2021	269	80.5%	43	3	19.4%
Jan – Mar 2022	324	90%	33	3	10%
Apr – Jun 2022	344	91.5%	29	2	9%

## 5. Exemptions

The majority of requests which have been responded to have resulted in full disclosure of all of the requested information in 745 (80%) of information requests. However, for some requests some information is exempt from disclosure in terms of FOISA or the EIRs. In such instances, FOI or EIR exemptions and exceptions are applied. The table below provides further information as to the use of these exemptions and exceptions. Partial disclosures, where some but not all information was released, accounts for 33 (3.5%) of information requests. The Council relied on exemption or exceptions for all requested information in 85 (9%) of information requests received although this is largely attributable to information sought not being held by the Council or being otherwise accessible.

Section	Exemption / Exception Cited	No of times cited
Section (12)	Excessive cost of compliance	2
Section (17) Regulation 10(4)a	Information not held	50
Section (25) Regulation 6(1)b	Information otherwise accessible	13
Section (26)	Statutory Prohibition	0
Section (27)	Future Publication	0
Section (30)	Substantial prejudice	4
Section (33), Regulation 10(5)e	Commercial interests and the economy	3
Section (34)	Investigations	0
Section 35 Regulation 10(5)b	Law Enforcement	8
Section (36) Regulation 10(5)d	Confidentiality	4
Section (39)	Health and Safety	0
Section (38) Regulation 11	Personal Information	9
Regulation 10(5)f	Interests of the supplier of information	0
Regulation 10 (4)c	Request formulated in too general a manner	0

## 6. Fees

FOISA makes limited provision for refusing requests, which incur an excessive cost and for partially recharging those that would cost the authority more than £100.00 to process. The EIRs allow for the full recharge of the cost of dealing with requests. The table below sets out the number of requests where fees notices were issued. If the applicant does not pay the fees notices within a certain period of time, the request will not be progressed. The Council tends to release the information in the majority of cases without a fee. In relation to EIRs, services are encouraged to charge for information particularly when a significant amount of information is required. The Council has a charging schedule on the Council's website to assist officers with this.

Quarterly Period	No of Requests where fees notices issued	No of requests not progressed due to fee notice not paid	No of Requests where fees notice paid
Oct to Dec 2020	0	0	0
Jan to Mar 2021	0	0	0
Apr to Jun 2021	1	0	0
Jul to Sept 2021	0	0	0
Oct to Dec 2021	0	0	0

## 7. Time and Cost Involved in Responding to FOIs

All costs associated with dealing with FOI/EIR requests, reviews and appeals and Data Subject Access Requests are contained within existing budgets. However, information on the time spent and estimated cost (based on the mid-point of the relative salary grade) of dealing with FOI and EIR requests across the Council has been collated since May 2016.

The time spent and estimated cost of dealing with FOI and EIR requests during 1 January to 31 December 2021 is set out in the table below with a comparison data for the same period in previous years. There has been a deterioration in the capturing of this information by services is evident from the recorded figures. Therefore, the undernoted figures are based on the figures recorded and using an average calculation for the average time and average cost associated with dealing with an FOI for those cases that did not have the information recorded to give a representative view of time and estimated costs. Further reminders will be issued to officers involved in the process for discussion within services to remind them of the importance of supplying this information at time of responding to the FOI request

Period of Time	Time spent in hours	Estimated costs
1 January – 31 December 2017	1814.4 hours	£30,112.93
1 January – 31 December 2018	1412.20 hours	£23,953.28
1 January – 31 December 2019	1934.95 hours	£39,122.34
1 January – 31 December 2020	1398.02 hours	£29,553.44
1 January – 31 December 2022	1222.34 hours	£24,919.80

## 8. Reviews and Appeals

During 2021, of the 937 information requests received, the applicants formally asked the Council to review its decisions on 15 FOISA and 3 EIR requests. The table below outlines the outcome of the reviews. Applicants submitted appeals to the SIC in 8 cases. The SIC upheld the Council's decision on one appeal and did not uphold the Council's decision on the other appeal. 6 cases that were referred for a decision from the SIC were withdrawn by the applicant.

Type of review	Number of reviews
<b>No of requests for internal reviews</b>	15 FOISA & 3 EIRs
<b>Outcome of internal reviews:</b>	
- upheld the Council's decision	11
- partially upheld the Council's decision	5
- did not uphold the Council's decision	1
- internal review submitted outside of timescale	1
<b>Appeals to Scottish Information Commissioner (SIC)</b>	8
<b>Outcome of SIC Appeal:</b>	
-upheld the Council's decision	1
-did not uphold the Council's decision	1
-withdrawn by applicant	6

## 9. Conclusion

The Council's performance during 2021 was undoubtedly impacted by the Covid-19 pandemic last year. During the year, particularly when volumes were lower training was under taken to support FOI designated officers and those officers involved in responding to requests as well as training for the new Information Governance Management System (Workpro). It is anticipated that the recently implementation of a new system Workpro together with ongoing work on policy, procedures and training will continue to support the improvements required in the coming year's performance.