

Assessment Report



Scottish Public Authority:	South Ayrshire Council
Dates of on-site assessment:	28 and 29 August 2012
Assessors from OSIC:	Alistair Rennie and Elaine Moffat
Date of issue:	15 February 2012

www.itspublicknowledge.info

Rosemary Agnew
Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
Tel: 01334 464610



Contents

Executive summary	3
Summary of recommendations.....	4
Scope and objectives of the assessment	5
Assessment process	6
Overview	7
The Council's request profile	7
Detailed outcomes, findings and recommendations	8
FOI structure, request handing procedures and recording systems, administrative arrangements and performance monitoring.....	8
FOI structure.....	8
Request handling procedures	9
Recording systems	10
Performance monitoring.....	11
Compliance with timescales	11
Content of notices etc.....	13
Review Process.....	14
Training and awareness of the legislative regimes.....	14
Publication scheme, disclosure log and active dissemination of information.....	15
Good Practice	16
Conclusions	16
Appendix 1: Action Plan for South Ayrshire Council	18



Executive summary

This report sets out the findings of an assessment of South Ayrshire Council (the Council), carried out by the Scottish Information Commissioner (the Commissioner). The assessment considered all aspects of the Council's handling of information requests in relation to compliance with the Freedom of Information (Scotland) Act 2002 (FOISA), the Environmental Information (Scotland) Regulations (the EIRs) and the associated Section 60 & 61 Codes of Practice.

The Council demonstrates strong FOI practice in several areas, including:

- An organisational FOI structure which combines a central administrative function for recording and tracking requests, with devolved request handling by appropriate business areas.
- Comprehensive FOI practices and procedures for responding to requests (recently updated).
- Strong technical knowledge of FOI among key staff and a wider programme of training and briefings to maintain staff awareness of their responsibilities, including an e-learning package.
- A list of current requests, which is to be developed into a disclosure log.

The Council acknowledged the Commissioner's concern about its record of responding to requests within the 20 working days statutory timescales. In the last four years, the Council has responded to an average of only 73% of requests within 20 working days. Consequently, many of the recommendations contained within this report are focused on helping the Council to reduce this significant risk, including:

- A review of the approach to statistical reporting and regular consideration of reports by the Corporate Management Team.
- A formal escalation process for late responses.



Summary of recommendations

Rec No	Reference to Recommendation	Recommendation
1	Paragraph 42	The Council should review its reporting and monitoring arrangements to ensure compliance with statutory timescales and integration with governance arrangements such as management of risk.
2	Paragraph 42	The FOI database should be updated to allow for the capture of all FOISA exemptions and EIR exceptions applied to requested information to enable the Council to comply fully with the requirements of the section 60 Code of Practice.
3	Paragraph 42	The Council should ensure that FOI procedures, guidance and accompanying FOI documentation are regularly and routinely reviewed and updated.
4	Paragraph 47	The roles and responsibilities of FOI Champions should be clearly defined, and focused on improving compliance with the statutory timescales for responses to requests. They should be documented within the Council's FOI procedures and communicated to staff.
5	Paragraph 47	The Council's revised processes for responses from Directorates to the FOI Lead should be supported by an escalation process, involving FOI Champions, for late, or inadequate responses.
6	Paragraph 53	The Council should ensure that all refusal notices meet with the requirements of section 16 of FOISA and when applicable, regulation 13 of the EIRs.
7	Paragraph 61	The Council should take the necessary steps to ensure that the FOI Lead Officer, her substitute, FOI Champions and other key members of staff have the knowledge and expertise to deal with the technical application of exemptions and exceptions and the public interest test. This should include measures to ensure this knowledge is refreshed and kept up-to-date.
8	Paragraph 61	The Council should take steps to raise awareness amongst staff of the EIRs, particularly the identification of verbal requests for environmental information.
9	Paragraph 67	The Council should take steps to ensure that it complies with section 23(1)(c) of FOISA by ensuring that its publication scheme is routinely reviewed and new information is added as required.



Scope and objectives of the assessment

1. The purpose of the assessment was to establish to what extent the Council was complying with its statutory obligations and demonstrating good practice in dealing with requests for information in terms of the **Freedom of Information (Scotland) Act 2002 (FOISA)**, the **Environmental Information (Scotland) Regulations 2004 (the EIRs)** and the associated Codes of Practice,¹ to identify any areas where procedure and practice were not in line with good practice and to make recommendations. Further information about the Commissioner's approach to assessments and details of our procedures is available at <http://www.itspublicknowledge.info/ScottishPublicAuthorities/Practiceassessments/Assessingpractice.asp>
2. The Commissioner's decision to assess the Council's compliance was driven by two considerations:
 - Local authorities receive high volumes of FOI requests and represent a high proportion of the Commissioner's appeal caseload.
 - Applications to the Commissioner concerning South Ayrshire Council indicated possible compliance issues with meeting statutory timescales and identifying environmental information.
3. The assessment considered all aspects of the way in which the Council handled information requests. The following practice areas were identified for particular consideration :
 - Compliance with timescales laid down in the legislation
 - Systems to monitor FOI performance
 - Systems for handling, managing and tracking information requests
 - Responses to information requests, in particular, whether refusal notices comply with the requirements of FOISA and the EIRs
 - Training provided to staff involved in receiving and responding to information requests.
 - The Council's newly updated FOI staff guidance and procedure documents
 - Identifying requests for environmental information
 - The management of the Council's publication scheme
4. No comment is made in this report on areas where there was no evidence of practice. For example, the Council has not:
 - Issued a refusal notice in terms of section 18 of FOISA ("Neither confirm nor deny")

¹ The relevant Codes of Practice are the Scottish Ministers' Code of Practice on the Discharge of Functions by Public Authorities Under the Freedom of Information (Scotland) Act 2002 and Environmental Information (Scotland) Regulations 2004 (referred to in this report as "the section 60 Code of Practice") <http://www.scotland.gov.uk/About/Information/FOI/Section60Code> It should be noted that the assessment did not assess compliance with the Freedom of Information (Scotland) Act Code of Practice on Records Management (commonly referred to as "the section 61 code").



- Issued a notice under section 14 of FOISA (vexatious or repeated requests)
 - Handled a request from someone with special needs, or been required to consider alternative response formats depending on the circumstances of a requester (although arrangements are in place should this be necessary in the future)
 - Transferred a request under the EIRs.
5. While conformance with the Section 61 Code was not considered in detail, assessors reviewed the Council's Records Management Policy Framework and Records Management Toolkit documents and were satisfied overall with the Council's records management arrangements. It was noted that the Council's Records Manager is a member of the FOI Working Group (discussed in more detail later in this report), which brings together a wide range of representatives with responsibility for information management.

Assessment process

6. The Commissioner notified the Council of the intention to conduct an assessment of its practice in November 2011. The on-site visit took place nine months later, on 28 and 29 August 2012.
7. The Council completed a self-evaluation questionnaire and provided the Commissioner with a sample of requests. The analysis of the Council's submission and an inspection of its publication scheme informed the issues explored in the on-site visit. Over two days the assessors met a cross-section of the Council's staff and were provided with a demonstration of relevant systems. At a concluding meeting the assessors provided feedback on key findings and risks identified to senior staff.
8. The Commissioner thanks the Council for its input to and support of the assessment process, particularly:
- David Anderson, Chief Executive
 - Eileen Howat, Executive Director Corporate Services
 - Valerie Andrews, Head of Legal and Administration
 - Solicitor, Legal and Administration
 - Organisational Development Manager, Corporate Services
 - Trading Standards and Environmental Health Manager
 - Administration and Information Co-ordinator
 - Senior Administrative Officer, Development and Environment
 - Service Development Officer, Children and Community
 - Customer Service Supervisor, Corporate Services
 - Administration Officer, Development and Environment
 - Clerical Assistant, Legal and Administration



Overview

9. The Council comprises eight wards, each served by three or four Elected Members. South Ayrshire has a population of 111,690, 90% of whom live in 13 main settlements including Ayr, Prestwick, Troon, Maybole and Girvan. The Council employs around 5,300 staff.²
10. The corporate management of the Council is provided by three Executive Directors led by the Chief Executive. The functions of the Chief Executive's Department include Corporate Strategy & Policy, Best Value & Community Planning, Corporate Performance Development & Reporting, Corporate communications and public relations.
11. Services are delivered through three Directorates: Corporate Services, Children & Community and Development & Environment and the Chief Executive's Department.

The Council's request profile

12. The Council provided statistics for the number of requests it had received during the four financial years 2008/09 to 2011/12 (inclusive). Although the Council receives and logs requests for environmental information, its statistics do not differentiate between requests under the EIRs and under FOISA. The following table shows the total number of requests received by financial year:

Financial year	Number of requests	% +/- on previous year	% of responses provided within 20 working days
2008/9	532	N/A	76%
2009/10	795	+49%	72%
2010/11	812	+2%	70%
2011/12	897	+10%	75%

13. Over the four years, request numbers increased by 69%. The financial year 2009/10 saw the largest single increase of 49% in the number of requests to the Council.
14. In the four year period 2008/09 to 2011/12, the Council responded to an average of 73% of the requests it received within the statutory timescale of 20 working days.³ On average therefore, the Council did not meet the statutory timescale for 27% of requests. The Council acknowledged that its record of compliance with timescales was unsatisfactory and informed the assessors that it has put a number of steps in place to address this issue.
15. During the intervening period between the assessment taking place and the beginning of January 2013, the Council informed the assessors that since reducing departmental response times from 18 days to 10 days, the Council has achieved a 100% success rate in meeting statutory timescales. It is apparent that this measure has had a very positive impact on the Council's ability to adhere to timescales and as set out later in this report, the Commissioner's assessors also recommend further actions to deliver a sustained improvement in this area.
16. In the last two financial years the Council had received only five requests for review, four of which were responded to within the statutory 20 working days.

² Scottish Government: *Public Sector Employment Statistics*, September 2012

³ This applies to both FOISA and EIRs, but Regulation 7(1) of the EIRs permits an extension of up to 40 working days for requested information which is both voluminous and complex.



Detailed outcomes, findings and recommendations

17. The following sections provide details of the main areas of practice assessed and any associated recommendations.

FOI structure, request handing procedures and recording systems, administrative arrangements and performance monitoring

FOI structure

18. Local authorities deliver a wide range of functions and many public services. They are among the largest Scottish public authorities, with complex structures. Managing FOI requests within such diverse organisations is a significant challenge, requiring co-ordination of responses to requests which span the work of several business areas.
19. The Council has developed an FOI structure to meet the needs of the authority. The Council's Executive Director of Corporate Services has strategic responsibility for compliance with FOI across the authority. The Head of Legal and Administration is the Head of Service with responsibility for the FOI process. The Administration and Information Co-ordinator (FOI Lead Officer) provides centralised management of information requests and responses to requesters. The three Directorates have each appointed FOI Representatives (Directorate Reps) who manage requests forwarded to them by the FOI Team. The responsibility for retrieving information is devolved to staff in relevant business areas. During interviews it was stressed to the assessors that senior managers consider that FOI is the responsibility of all staff.
20. It was clear that the FOI Team and Directorate Reps have developed effective relationships with staff across the authority. The FOI structure in place assigns responsibilities across the authority and provides reassurance that:
- Requests are tracked and managed across the authority.
 - Searches for information are conducted by officers familiar with the information held in their particular service areas.
 - Responses are co-ordinated and issued from a central point.
21. The Council has recently agreed to appoint FOI Champions in each Directorate. Although their specific roles and responsibilities have not been finalised, the Champions will be at least third tier managers tasked with providing more senior level support to the Directorate Reps. It will be important to document these roles and responsibilities within the Council's procedures and communicate them to staff.
22. The Council has a FOI working group in place. The working group comprises the FOI Team and the Directorate Reps and is chaired by the Head of Legal and Administration. The working group was established to prepare for the introduction of FOISA in 2005 and meets on a quarterly basis. In preparation for the assessment the group held more regular meetings and the Council confirmed that more regular meetings would continue to be held as and when required.



23. In advance of their visit, the assessors were provided with a comprehensive set of the Council's FOI guidance and procedure documents. These materials are available to all staff through the Council's intranet. Although the documents had been updated recently, there appeared to be no system in place for routine review. It is important that guidance and procedures are reviewed and updated routinely and regularly to take account of legislative changes, national policy developments that impact on FOI and changes in the structure or practice of the organisation.
24. Although many of the staff interviewed during the visit had not received formal training or refresher training, assessors were impressed with levels of technical knowledge displayed.

Request handling procedures

25. The Council receives the vast majority of requests electronically via its generic FOI email address foi@south-ayrshire.gov.uk. This mailbox is monitored by two staff (the FOI Team) who report to the FOI Lead Officer. Requests received by an individual member of staff, sent to another mailbox or by post are immediately forwarded to the central team to log and assess. The team allocates the requests to the appropriate Directorate Reps.
26. In each case, the Directorate Rep determines which business areas within the Directorate are likely to hold the requested information and forwards the request to the appropriate managers or officers for action. Staff in the relevant business areas search for the information in their records. Should staff consider that any exemptions may apply, the business areas work with the Directorate Rep and the FOI Lead Officer (who will obtain legal advice if required) to develop the reasons to support non-disclosure. Decisions on whether information should be released rest with the Head of Legal and Administration.
27. The Directorate Rep forwards the information and the Directorate's response to the FOI Lead Officer. The Lead Officer then collates all responses and issues the final response to the requester.
28. The above approach is followed for all information requests to the Council. The request handling arrangements were revised and re-emphasised to Directorates following the Council's recent review to ensure more effective compliance. For example, in the past requests were occasionally received and responded to directly by the Directorates. The FOI Lead Officer would occasionally have to follow up some of those responses, such as advising requesters of their statutory rights.
29. The Council's arrangement allows Directorate Reps to select staff within their areas to conduct searches for information, based on their knowledge and understanding of the business areas. As a result the Directorate Reps and the FOI Lead Officer can be confident that full searches have been undertaken. The Council recently introduced an additional step into its FOI handling procedures, requiring staff to formally record the searches they have undertaken in response to all requests.



Recording systems

30. On receipt of a request, the initial actions are:
 - The FOI Team enter the request into the Council's FOI database. FOISA and EIR requests are logged separately and each request is allocated a unique reference number, used in all subsequent correspondence with the requester. The reference number is also used in internal correspondence within the Council.
 - An acknowledgement is issued to the requester.
 - The team completes a checklist to establish whether clarification is required before the request can be passed to the Directorate Reps. This checklist also provides any additional information which might assist the Directorate Reps.
31. If clarification is required, a proforma is used as an additional quality check. Guidance has been provided to staff to ensure that any consideration of clarification is made immediately upon receipt of the request.
32. An email is then sent to the appropriate Directorate Rep identified by the FOI Team to deal with the request, detailing the request and the date the response is due to be with the FOI Lead Officer.
33. The FOI database captures a wide range of information, allowing the Council to collate most, but not all, of the statistical information recommended by the Section 60 Code of Practice. Currently, the database permits the recording of only one exception or exemption relied on as grounds for withholding information rather than all grounds applicable to a particular request.
34. The FOI database is used only by the FOI Team. Each Directorate Rep monitors their particular area's requests with an Excel spread sheet. Until recently each Directorate Rep had their own monitoring and tracking arrangements in place. Following a review of these arrangements all Directorate Reps now use the same spread sheet.
35. The Council is considering replacement of its current FOI database with a system that would allow it to reduce reliance on paper files, increase monitoring and tracking capabilities and support more detailed performance reporting.
36. Each new request is allocated a unique reference number. The primary record for each request, however, is paper-based, with a new file set up for each request. The paper file contains all information relating to the request, any review or appeal to the Commissioner. Electronic correspondence is saved in a system of email folders. The unique reference number allows the FOI Team to cross reference the files when required.
37. In the FOI Lead Officer's absence, cover is provided by Office Services' Administration Officer. The Administration Officer assumed these responsibilities at the beginning of 2012. She has received on-the-job training and can access the Council's guidance documents and support from Legal Services when necessary. However, she has not received any formal FOI training (this issue is explored later in this report).



38. There are also informal arrangements to ensure continuity of service and to alert the FOI Team where Directorate Reps are absent. The Council agreed that it would be helpful to document the arrangements.

Performance monitoring

39. FOI is incorporated into the Council's Corporate Services Directorate Plan for 2011-14. Progress against the plan is updated every six months and scrutinised by members of the Corporate and Community Planning Scrutiny Panel.
40. Performance reports are produced by the FOI Team, using the information captured in the FOI database, on a quarterly and annual basis. These reports are used by the FOI Team to monitor requests and report on performance. Reports inform the CMT and, at a local level, each Directorate. Corporate Services regularly review the Council's and their own Directorate's performance at Departmental Management Meetings. More detailed reports can also be provided, on request, to the Corporate Management Team, Directorate Reps and managers. However, FOI is not a standing item for consideration by the CMT. It is essential to include FOI reports within an authority's governance reporting framework and it is currently not clear how performance and risk arising from performance are monitored at a strategic level in the Council.
41. The Council shows good practice by publishing the reports on its website <http://www.south-ayrshire.gov.uk/foi/statistics.aspx>.
42. Recommendations:

Recommendation 1

The Council should review its reporting and monitoring arrangements to ensure compliance with statutory timescales, and integration with governance arrangements such as management of risk.

Recommendation 2

The FOI database should be updated to allow for the capture of all FOISA exemptions and EIR exceptions applied to requested information to enable the Council to comply fully with the requirements of the section 60 Code of Practice.

Recommendation 3

The Council should ensure that FOI procedures, guidance and accompanying FOI documentation are regularly and routinely reviewed and updated.

Compliance with timescales

43. As noted earlier in this report, the Council acknowledged that its record of responding to requests falls short of the requirement to respond to information requests within the statutory timescale of 20 working days.



44. The Council had already responded positively to the issue in three ways:
- The FOI procedures and guidance had recently been fully reviewed and revised as a result.
 - The time for responses by Directorate Reps to the FOI Lead Officer had been reduced from the 18th working day following the Council's receipt of the request to the 10th working day. This change was initiated at the beginning of September. The aim was to give the FOI Lead officer more time to review and collate responses, request any additional information and to prepare the final response.
 - The Council decided to appoint FOI Champions in Directorates to provide more senior level support to Directorate Reps.
45. Assessors supported all of the above practice changes but noted that:
- There was a lack of detail about the focus of the FOI Champions whose roles and responsibilities had not yet been fully defined and documented.
 - While the Council's new arrangements showed positive indications of a more robust process, there was no formal procedure for the FOI Lead Officer to escalate late or inadequate responses.
46. In the last two years, the Council had received only five requests for review. This represents 0.3% of all requests received in that period. The Council had responded to four of the requests for review within the required 20 working days. This low number of requests for review was insufficient to draw any detailed conclusions about performance relating to reviews. However, the Council may wish to consider the point that poor compliance with the statutory timescales for responses to requests increases the likelihood of more requests for review and appeals to the Commissioner, and so increases exposure to risks associated with poor performance. While this is not a significant issue currently, it may present problems in the future.

47. Recommendations:

Recommendation 4

The roles and responsibilities of FOI Champions should be clearly defined, and focused on improving compliance with the statutory timescales for responses to requests. They should be documented within the Council's FOI procedures and communicated to staff.

Recommendation 5

The Council's revised processes for responses from Directorates to the FOI Lead should be supported by an escalation process, involving FOI Champions, for late, or inadequate responses.



Content of notices etc.

48. The content of notices provided in response to requests and requests for review must meet statutory requirements.⁴ For example, responses must provide details of the requester's rights of review and application to the Commissioner.⁵ Broadly, the same requirements are set out in the EIRs.⁶
49. Where an exemption or an exception is applicable and claimed as a reason to withhold information, the authority must state why it applies (unless that is apparent without it being stated). And if the cited exemption or exception is subject to the public interest test, the notice must also state why, in all the circumstances of the case, the authority has judged that the public interest in maintaining the exemption or exception outweighs that in disclosure of the information.⁷
50. The assessors noted from examination of the Council's FOI performance reports, that the Council had applied exemptions or exceptions in response to only a small proportion of requested information. In 2010/11 and in 2011/12, only 10% of requests were closed on the basis that information was either partially or fully exempt.
51. The assessors examined a sample of 35 requests, which included six occasions (6% of the sample) where information had been refused. In the six refusal notices:
- In two cases the refusal notices fully met the technical requirements of section 16 of FOISA
 - In two cases the Council had applied section 25 of FOISA (Information otherwise accessible) but the response letters did not fully cite the relevant subsection of the exemption on which the Council was relying. In both cases reasons to support the exemption and advice and assistance were provided.
 - In one case reasons were provided, but no exemption was cited and there was no reference to the public interest.
 - In another case information was redacted and there was a reference to personal data but no reasons were provided for the redaction and no exemption was cited.

Therefore, in four of the six refusal notices examined, the Council's responses were not fully compliant with the statutory requirements.

52. The FOI Lead Officer has access to a comprehensive suite of standard template letters for responding to requests under both FOISA and the EIRs. These templates were developed in-house by the Council and each template letter has a detailed factsheet for requesters. The assessors considered the suite of materials to be of an excellent standard and had only one minor concern: that the requester's rights to request a review if dissatisfied with the initial response and subsequent right to make an application to the Commissioner are contained only within the factsheet and not within the body of the standard letter. If an officer were to

⁴ Sections 16 (Refusal of request) and 19 (Content of certain notices) of FOISA and regulation 13 (Refusal to make information available) of the EIRs

⁵ Sections 20(1) (Requirement for review of refusal etc.) and 47(1) (Application for decision by Commissioner) of FOISA and regulation 17 (Enforcement and appeal provisions) of the EIRs

⁶ Regulations 13 (Refusal to make information available) and 17 (Enforcement and appeal provisions) of the EIRs

⁷ Section 16(2) FOISA and regulation 13(b) and (c) of the EIRs



inadvertently omit the factsheet from a response, the formal notice issued would then not be compliant with section 16 of FOISA. The Council accepted this point and responded immediately by including a rights statement in the template letters. It will continue to provide the factsheet with responses, providing full information to recipients.

53. Recommendation:

Recommendation 6

The Council should ensure that all refusal notices meet with the requirements of section 16 of FOISA and when applicable, regulation 13 of the EIRs.

Review Process

54. Reviews are managed via the Council's Internal Review Group (IRG). The IRG consists of the Executive Director for Corporate Services (if the review relates to this Directorate another Director will substitute), the Head of Legal and Administration and another Head of Service from a department not involved in the original request. The process is administered by the FOI Lead Officer, who is also responsible for issuing the IRG's decision to the requester.
55. The Council has received only a small number of requests for review. The assessors examined all five reviews conducted by the Council during 2010/11 and 2011/12, noting that in each case there was evidence to demonstrate that a robust review process had been undertaken by the IRG.
56. The Council has produced comprehensive guidance for staff undertaking reviews, taking into account the requirements of both FOISA and the EIRs. Reviews are appropriately documented. The assessors concluded that the Council's review practice is compliant with the Section 60 Code of Practice and that the procedures in place are evidence of good practice.

Training and awareness of the legislative regimes

57. The assessors made reference to paragraph 1.1 of the updated Section 60 Code of Practice:
- "Authorities should provide training to ensure that staff have sufficient knowledge of the regimes and establish responsibility at a senior level for overseeing compliance"*
58. The assessors were impressed with the overall level of technical knowledge of applying FOI legislation demonstrated by key staff with FOI responsibilities. However, it became apparent that, whilst formal training had been provided to these staff since the introduction of FOISA, there was no regular training programme in place. FOI training sessions were last conducted two years ago, covering both FOISA and the EIRs. The resilience of the current knowledge levels of FOI is vulnerable to staff changes. The good technical knowledge demonstrated by some staff should be demonstrated by all appropriate staff, supported by regular learning and development to ensure knowledge is current.



59. More generally, FOI is incorporated into the Council's staff induction programme and staff can access an on-line e-learning package, which provides an introduction to FOI. The Council is currently updating the e-learning package and intends to develop a suite of on-line training packages, tailored to the needs of staff depending on their role in the FOI process. The Council also issues bi-annual FOI updates to all staff via its internal communication system, reminding staff of their obligations under FOI, how to respond to a request for information and how to make contact with the FOI Team for advice and assistance when required. Key FOI staff also attend regular meetings hosted by the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR), the National FOI Officers Group and FOI seminars during the course of a year,
60. The assessors welcomed the Council's commitment to staff FOI development, particularly the development of the e-learning package and FOI awareness-raising at induction. It was noted that training materials focus both on compliance with FOISA and also the EIRs, and that guidance for staff is available on the Council's intranet on "How to recognise environmental information".
61. Recommendations:

Recommendation 7

The Council should take the necessary steps to ensure that the FOI Lead Officer, her substitute, FOI Champions and other key members of staff have the knowledge and expertise to deal with the technical application of exemptions and exceptions and the public interest test. This should include measures to ensure this knowledge is refreshed and kept up-to-date.

Recommendation 8

The Council should take steps to raise awareness amongst staff of the EIRs, particularly the identification of verbal requests for environmental information.

Publication scheme, disclosure log and active dissemination of information

62. The Commissioner's approval for the Council's current publication scheme, developed in 2009 and available at <http://www.south-ayrshire.gov.uk/documents/foipublicationscheme.pdf> will expire on 31 May 2013.
63. With support from the Commissioner, the Council reviewed and updated its current publication scheme during the assessment process.
64. The FOI Lead Officer is responsible for the maintenance of the Council's publication scheme. The Council's FOI procedure recommends all sections of the authority be pro-active in updating the publication scheme and staff have access to a pro-forma, which should be used to inform the FOI Lead Officer of any proposed updates. However, there is no programme for regular review of the publication scheme, giving rise to the risk that the Council will fail to comply with section 23(1)(c) of FOISA (requirement that schemes are reviewed from time to time).



65. During discussions with senior members of staff, the assessors noted the Council's intention to encourage more Directorates to pro-actively identify information which they consider should be made available via the Council's publication scheme and website.
66. The Council publishes a list of current information requests, including details of the requested information and the status of the request. The Council is currently developing this list to also provide access to any disclosed information (a disclosure log).
67. Recommendation:

Recommendation 9

The Council should take steps to ensure that it complies with section 23(1)(c) of FOISA by ensuring that its publication scheme is routinely reviewed and new information is added as required.

Good Practice

68. In the lead-in period for this assessment South Ayrshire Council had devoted significant resources to the review and updating of its FOI arrangements. Assessors noted several areas of good practice by this authority, including:
 - An organisational FOI structure, combining a central administrative function for recording and tracking requests with devolved request handling by appropriate business areas. The structure assigns responsibilities across the authority and ensures that searches for information are conducted by officers familiar with the information-holding responses are co-ordinated and issued from a central point.
 - Comprehensive FOI guidance and procedure documents, detailed guidance for staff responding to requests and undertaking reviews.
 - All staff have access to an FOI e-learning package available through the Council's intranet
 - Publication of a list of FOI requests, soon to become a disclosure log.

Conclusions

69. Overall, the Council manages FOI reasonably well, and the Commissioner has only one key area of concern. This concern, acknowledged by the Council, is its record of responding to requests within statutory timeframes. Over the last four years, the Council has failed to meet the statutory timescale of responding within 20 working days in 27% of cases. The Council has already taken some steps to address this risk and many of the Commissioner's recommendations are intended to assist the authority to achieve a significant improvement in this area.



70. Taking account of the associated risks, (as detailed in the Summary of Recommendations table on page 4 of this report, the assessors have **classified** their recommendations using a “traffic light” system, i.e. red (critical), amber (significant) and green (routine). This should assist the Council in prioritising the action required to address the concerns raised. The assessors consider that all steps which require to be taken in relation to the recommendations can reasonably be completed within a period of six months.
71. A copy of the action plan prepared in consultation with the Council, setting out the actions it has taken and intends to take to satisfy the recommendations in this report is attached at Appendix 1.
72. At the end of the six month period (from the date of publication of this assessment) the Commissioner will ask the Council to submit a report explaining the measures put in place to address the issues identified in the assessment and the outcomes of the action plan. Following receipt of this report, the Commissioner will either sign-off the assessment as completed or consult with the Council about progress or further action required.

.....

Alistair W Rennie
Freedom of Information Officer

.....

Elaine Moffat
Freedom of Information Officer

Report approved by

.....

Sarah Hutchison
Head of Policy and Information



Appendix 1: Action Plan for South Ayrshire Council

Note on completion: DO NOT AMEND THE COLUMN TITLES or formatting in this document. (Delete guidance notes in rows one and two when table completed).

Rec No	Recommendation	Action	Status	Due	Owner
1	The Council should review its reporting and monitoring arrangements to ensure compliance with statutory timescales and integration with governance arrangements such as management of risk.	(1) Expand the current entry in the Directorate Plan to include this recommendation and inclusion of appropriate target for performance and add to the Directorate's Risk Register. (2) Introduce regular (quarterly) reporting of statistics to Corporate Management Team	Not started	June 2013	VA
2	The FOI database should be updated to allow for the capture of all FOISA exemptions and EIR exceptions applied to requested information to enable the Council to comply fully with the requirements of the section 60 Code of Practice.	Arrange for the FOI and EIR databases to be updated to comply with this recommendation	Complete		



Rec No	Recommendation	Action	Status	Due	Owner
3	The Council should ensure that FOI procedures, guidance and accompanying FOI documentation are regularly and routinely reviewed and updated.	Expand the current entry in the Directorate Plan and the Council's Performance Management System to include this recommendation.	Not Started.	30 June 2013	VA
4	The roles and responsibilities of FOI Champions should be clearly defined, and focused on improving compliance with the statutory timescales for responses to requests. They should be documented within the Council's FOI procedures and communicated to staff.	Prepare remit for FOI Champion and communicate to members of staff.	Started.	30 June 2013	VA/AN
5	The Council's revised processes for responses from Directorates to the FOI Lead should be supported by an escalation process, involving senior managers, for late, frequently late or inadequate responses.	The FOI/EIR Process Document will be updated to include an escalation process. This process will also be included in the remit of the FOI Champions.	Started.	30 June 2013	VA/AN
6	The Council should ensure that all refusal notices meet with the requirements of section 16 of FOISA and when applicable, regulation 13 of the EIRs.	An 'insert box' to be included in all appropriate letter templates. The 'insert box' will request the Section of the Act plus the Sub Section.	Complete		AN



Rec No	Recommendation	Action	Status	Due	Owner
7	The Council should take the necessary steps to ensure that the FOI Lead Officer, her substitute, FOI Champions and other key members of staff have the knowledge and expertise to deal with the technical application of exemptions and exceptions and the public interest test. This should include measures to ensure this knowledge is refreshed and kept up-to-date.	<p>Basic FOI/EIR Awareness online e-learning package on COAST being developed.</p> <p>Ongoing work developing the Council's online e-learning package, COAST for key members of staff.</p> <p>Attendance of key staff at the appropriate national meetings and seminars, i.e. SOLAR, Annual FOI Conference.</p>	<p>Started</p> <p>Ongoing</p> <p>Ongoing</p>	<p>30 June 2013</p> <p>30 June 2013 for initial package</p> <p>Continuous</p>	VA
8	The Council should take steps to raise awareness amongst staff of the EIRs, particularly the identification of verbal requests for environmental information.	<p>Ongoing work developing the Council's online e-learning package, COAST.</p> <p>Regular Communication Bulletins have been scheduled to be issued by the Council's Communications Team.</p> <p>Review of documentation on the Council's Internal Website.</p>	<p>Ongoing</p> <p>Complete</p> <p>Complete</p>	Continuous	VA



Rec No	Recommendation	Action	Status	Due	Owner
9	The Council should take steps to ensure that it complies with section 23(1)(c) of FOISA by ensuring that its publication scheme is routinely reviewed and new information is added as required.	Include this recommendation in the FOI Champions remit which will be an ongoing task.	Ongoing	30 June 2013	VA
		Publication Scheme currently being reviewed and 'Guide to Information' being prepared.	Started	Continuous	