

**28 FEBRUARY 2012****Agenda Item: 4****REPORT OF THE ASSISTANT CHIEF EXECUTIVE****FREEDOM OF INFORMATION ACT AND ENVIRONMENTAL INFORMATION  
REGULATIONS UPDATE****Purpose of the Report**

1. To update Standards Committee on the Council's discharge of its duties under the Freedom of Information Act 2000) and Environmental Information Regulations 2004.

**Information and Advice**

2. The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations (EIR) places the Council under a duty to respond to requests for information (unless an exemption applies) and to be proactive in making as much information as possible publicly available. The aim of the legislations is to improve democratic process by giving the public greater access to information about the working of public authorities.
3. The Council publishes guidance on its website advising the public how to access information under the FOIA and EIR. The Council has also adopted the Information Commissioners Model Publication Scheme which sets out the classes of information that are routinely published; this is also published on the website. On the 29 November 2011 a report was brought to the Standards Committee seeking to endorse the Council's response to the Information Commissioner's consultation regarding revising publication schemes. The outcome of the consultation has not yet been published, but any future requirements will be incorporated into the Council's publication scheme.
4. On 12 April 2011 a report was brought to the Standards Committee regarding centralisation of the FOIA and EIR functions. The Information Governance Team was established, located within the Complaints and Information Team, comprising 1 Senior Practitioner and 2 Information Officers. The rationale for creating a centralised team was to ensure consistency and compliance, avoid duplication of effort and to provide flexibility to deal with fluctuating workloads.
5. It is the function of Standards Committee to monitor the operation of the Council's FOIA and EIR Policies. Officers keep records of the information requests that the Council receives and how they are dealt with; this enables an overview of the demands placed on the Council in discharging its duties, and how it is coping with demands.

6. Statistics for January to December 2011 are shown in the **Appendix** to this report. The main conclusions that can be drawn from the statistics are as follows:
  - 6.1 The total number of requests received for 2011 is 899 compared to 578 in 2010, a substantial increase of 55%. The majority of the requests were received from members of the public, although there was an increase from the media and a large number were recorded in the 'other' category, where it is often unclear whether the request was from a member of the public, business or the media.
  - 6.2 In some instances an exemption is applied to some or all of the information requested; this results in the Council withholding information. In the majority of requests received, all the information requested was released, however in 2011 an exemption was applied to 80 requests (8.9%) and so some or all of the information was withheld.
  - 6.3 70% of the requests received in 2011 were responded to within the timescale of 20 working days. This was during a time of restructuring of the Council and a substantial period of transition, and it is hoped that there will be an improvement in these response times. It is pleasing to note that during the last quarter of the year the number of requests responded to within timescale increased to 77%.
7. Since the introduction of revised procedures for consideration of the Public Interest Test (approved by Standards Committee on 15 June 2011), the decision making process is more efficient, and incorporated into the 20 working days timescale.
8. Three complaints were referred to the Information Commissioner's Office (ICO) during the reporting period. One complaint concerned the Council's refusal to provide personal information contained in an investigation report. The ICO upheld the Council's decision; the matter is ongoing however as the complainant has appealed to the Information Tribunal. The two further complaints are currently being considered by the ICO. The first relates to the Council's refusal to supply notes relating to an inspection, on the grounds of personal information and expectation of privacy. The second relates to the Council's refusal to provide tender documentation on the ground of commercial interests.
9. The report of 7 December 2010 informed Standards Committee of a complaint regarding the Council's refusal to release a full copy of its waste PFI contract with Veolia Environmental Services. At that time one element of the ICO's decision was the subject of an appeal. The Information Tribunal has now considered the appeal; the matter is ongoing however as there is a further appeal to the Upper Tribunal. The Council is currently waiting for confirmation of whether there will be an oral hearing: if not the matter will be considered on the basis of written submissions.
10. In addition to reporting to Standards Committee the Complaints and Information Team Manager is reporting on quarterly basis to Senior Leadership Teams on the number of FOI and EIR requests received.

## **Statutory and Policy Implications**

11. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service

and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **RECOMMENDATION/S**

12. That the Committee is satisfied with the overall compliance levels.
13. To seek the view of the Committee for future reporting requirements.

**JAYNE FRANCIS-WARD**  
**ASSISTANT CHIEF EXECUTIVE**

### **For any enquiries about this report please contact:**

Jo Kirkby: Complaints & Information Team Manager

### **Constitutional Comments (SLB 14/02/2012)**

14. The Standards Committee has responsibility for monitoring the operation, and advising the Council on the updating and revision, of all Codes of Conduct and Practice including the Freedom of Information Policy by virtue of Article 9.3.4.6 of Part Two of the Constitution. The Standards Committee is the appropriate Committee to consider the matters set out in this report.

### **Financial Comments (MB 16/02/12)**

15. There are no specific financial implications arising from the report.

## **Background Papers**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Standard Committee report dated 12 April 2011 is available on the Council's website [R6\\_Centralisation of Complaints etc.pdf \[43456\]](#)

Standard Committee reported dated 15 June 2011 is available on the Council's website [9\\_FOI.pdf \[46050\]](#)

Standard Committee report dated 29 November 2011 is available on the Council's website [7r\\_FOI Consultation.pdf \[80660\]](#)

Standard Committee report dated 7 December 2010 is available on the Council's website  
[http://dominoapps.nottscc.gov.uk/apps/ce/memman/memman.nsf/EA7151554C0DAC918025760200580ACF/\\$file/R05\\_FOI%20Update.pdf](http://dominoapps.nottscc.gov.uk/apps/ce/memman/memman.nsf/EA7151554C0DAC918025760200580ACF/$file/R05_FOI%20Update.pdf)

The Information Commissioners Decision Notices in relation to Nottinghamshire County Council are published on the internet

[http://www.ico.gov.uk/tools\\_and\\_resources/decision\\_notices.aspx](http://www.ico.gov.uk/tools_and_resources/decision_notices.aspx)

The Information Tribunal Veolia appeal ruling is published on the internet

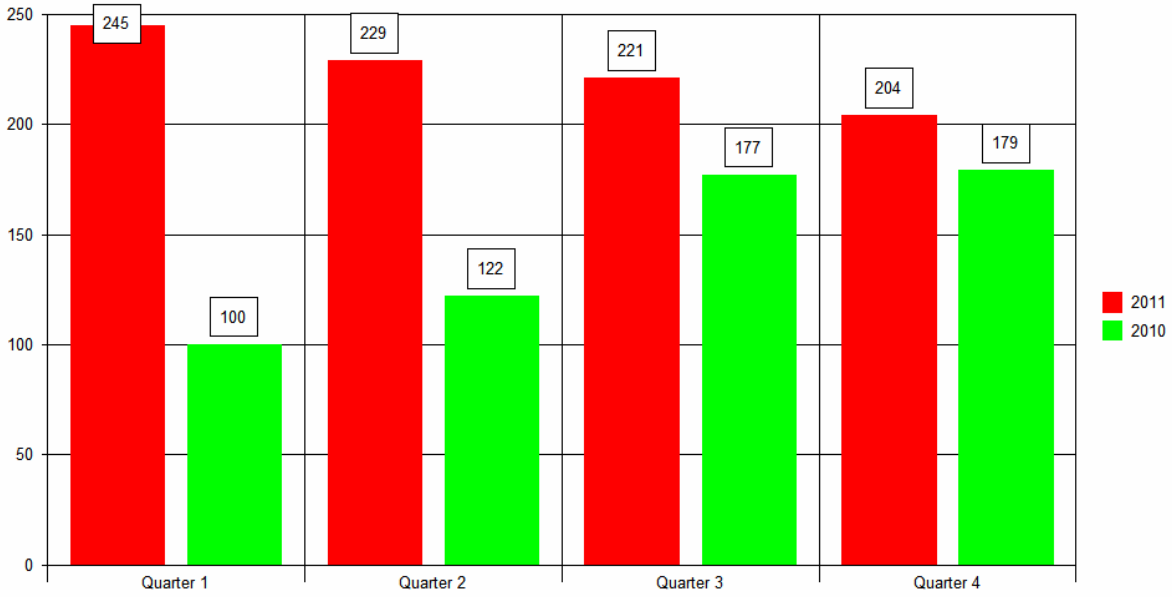
<http://www.informationtribunal.gov.uk/DBFiles/Decision/i486/20110419%20Decision,%20Review%20&%20Rulings%20EA20100114.pdf>

### **Electoral Division(s) and Member(s) Affected**

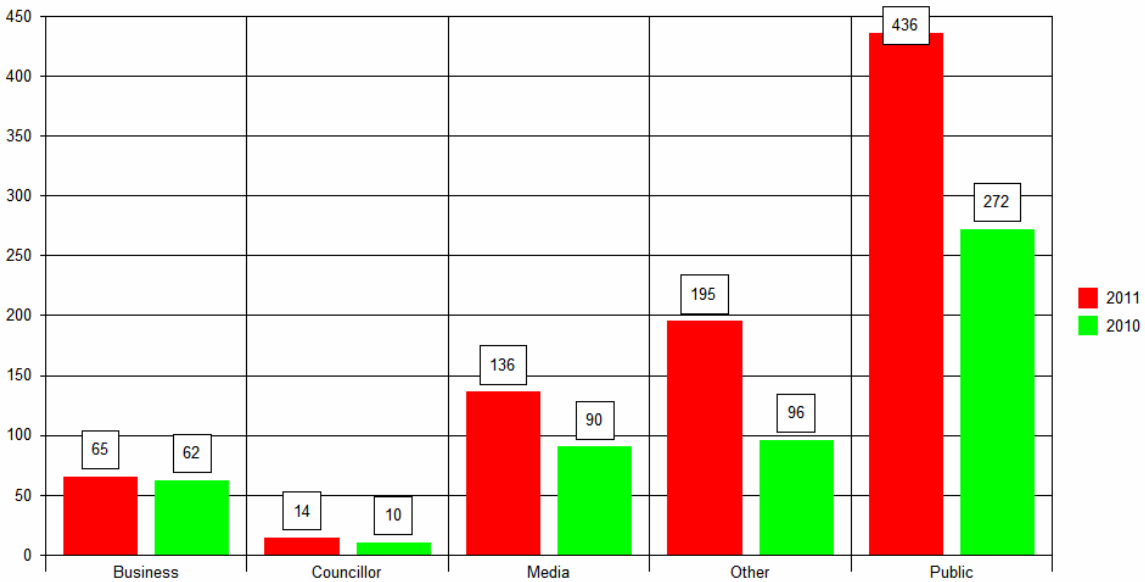
All

# APPENDIX

## FOIA & EIR Requests received



## FOIA & EIR by Originator



### FOIA & EIR Exemptions Applied

