October 2021

Agenda Item No.

Information Requests Annual Report 2020-21

Report by: Diarmuid Cotter, Head of Customer and Online Services, Communities

Wards Affected: All

Purpose

This is the annual report detailing requests for information received in terms of the Freedom of Information (Scotland) Act 2002 (FOISA): the Environmental Information (Scotland) Regulations 2004 (EIR) and the GDPR/Data Protection Act 2018 (DPA).

Recommendation(s)

That the Committee:-

- Note that the workload arising from managing information requests
- Comment on the performance detailed in this report.

Resource Implications

This report does not have any resource implications.

Legal & Risk Implications

Failure to comply with the relevant statutory provisions in relation to Information Requests leaves the Council exposed to reputational damage, and potential enforcement action from regulatory bodies including monetary penalty notices.

Impact Assessment

An IA Checklist is not required as this is a performance report and does not recommend changes to Council policy and does not require a decision.

Consultation

1.0 Background

1.1 **Glossary:** The following abbreviations are used throughout this report:

FOISA:	Freedom of Information (Scotland) Act 2002
EIR:	Environmental Information (Scotland) Regulations 2004
DPA:	GDPR/Data Protection Act 2018
SAR:	Subject Access Request (GDPR)
OSIC:	Office of the Scottish Information Commissioner (responsible for FOISA/EIR)
ICO:	Information Commissioners Office (responsible for DPA throughout the UK)
Data Controller:	Fife Council
IMRT	Information Management & Request Team
BAU	Business as Usual

1.2 Anyone has the right to ask the Council for information that is held by the Council. Once received, each Information Request will be processed in accordance with the relevant statutory requirements. The request types and response requirements are as follows:

- Freedom of Information Request - 20 Working Days.

- Environmental Information Request - 20 Working Days.

- DPA – (Subject Access Request - SAR) – 1 Month

- DPA – Other, such as Court Orders etc – 7 calendar days

Time is recorded to show how long each individual request has taken to process, collate and provide response. The breakdown below shows the average time each type of request requires to be worked on. This does not show the average time to respond:

FOISA /EIR – 7.12 hrs

SAR – 36 hrs

Other DPA – 4 hrs

1.2 Exemptions within the Data Protection Act 2018 allow access to personal data by third parties under schedule 2, Part 2, Section 2 (s2), crime and taxation and schedule 2, Part 2, Section 5 (s5), information required to be disclosed by law, or in connection with legal proceedings.

1.3 Unlike FOI/EIR & SAR which are managed fully by the IMRT, s2 and s5 requests are required to be reviewed by the team on receipt to confirm that the requests are compliant. IMRT provide guidance and advice to services where required, prior to the service releasing the information directly to the applicant. These requests are shown within this report under DPA Other, along with Business as Usual (BAU) and Education Record requests.

2.0 Developments – 2020/21

2.1   Fife Council are now publishing responses that have been given under FOI and EIR. The disclosure Log can be found here.

2.2   Guidance on fife.gov.uk was updated for applicants to provide improved guidance on making requests for information.

2.3   Improved staff guidance was provided to ensure compliance of the different regimes.

2.4   IMRT have continued to work at home throughout the restrictions. Over this time continual improvements have been made to systems and working practices.

2.5   Various services, due to issues accessing data during the initial lockdown, had difficultly providing data to IMRT within timescale. On the return of normal services work began with these services to identify where improvements could be made for any similar future events.

2.6   The Scottish Parliament Public Audit and Post-legislative Scrutiny Committee have completed their review of the Freedom of Information Act (Scotland) 2002. The report had not been published prior to the pandemic and was published in May 2021.

        Main points relate to:

        publishing of information; culture; charging; applicant blind; clarification timescales; extending the act to public bodies in receipt of significant public funds

2.7   The Scottish Government have been tasked with carrying out a consultation and to work with OSIC and public authorities to implement required changes. It was expected that an update could be provided in this report, however this is not yet available at this time.

3.0 Information Requests – 2020/21

3.1   This section provides the following information:

- o   data and performance of all types of requests
- o   request performance of FOI/EIR and SAR
- o   details of escalation that has been required to be carried out by IMRT to access the required data.
- o   information relating to the reason for lateness. This identifies whether the late response was due to IMRT, Service or Other

3.2   3,691 Information Requests were formally logged between 1 April 2020 and 31 March 2021. This total is made up of:

- • 1273 Freedom of Information Requests (FOISA) – 34%
- • 527 Environmental Information Regulations (EIR) – 14%
- • 537 Subject Access Requests (SAR) – 15%
- • 1,354 Other requests including s2 and BAU – 37%

Of the total 3691 requests

- • 3691(90%) - Completed In Time
  (*In Time = Requests completed within statutory timeframes.*)
- • (10%) - Overdue.
  (*Overdue – Requests completed but out with statutory timeframes.*)

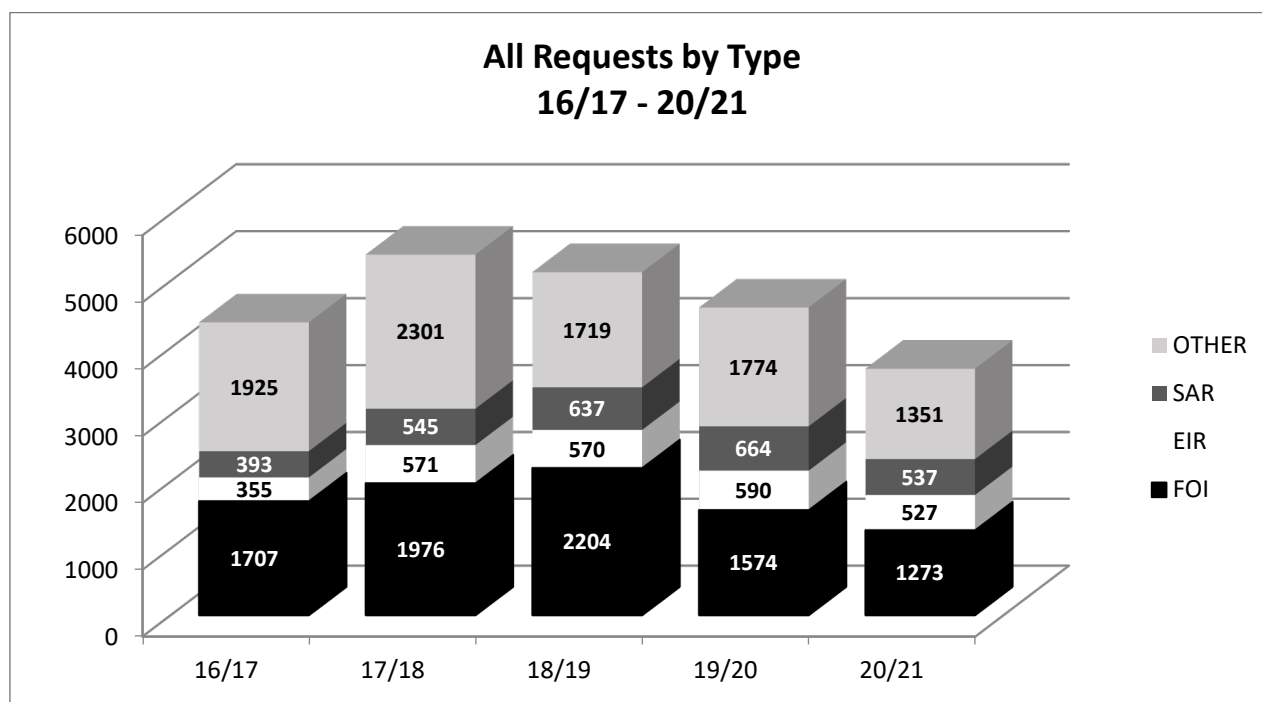3.3 Figure 1 below highlights the complete number of requests received since 2016/17

Figure-1 –shows all requests received

3.4 The difference in the number of requests received between 2018/19 and 2020/21 was due to a procedure change, where FOI and EIR were logged as separate requests. However, the number of requests received declined in 2020/21. This was mainly due to small numbers being received throughout the initial lockdown. You can see this clearly in figure 3 below.

3.5 Figure 2 below shows the performance of all types of requests received. This shows an increase in performance during 2020/21.
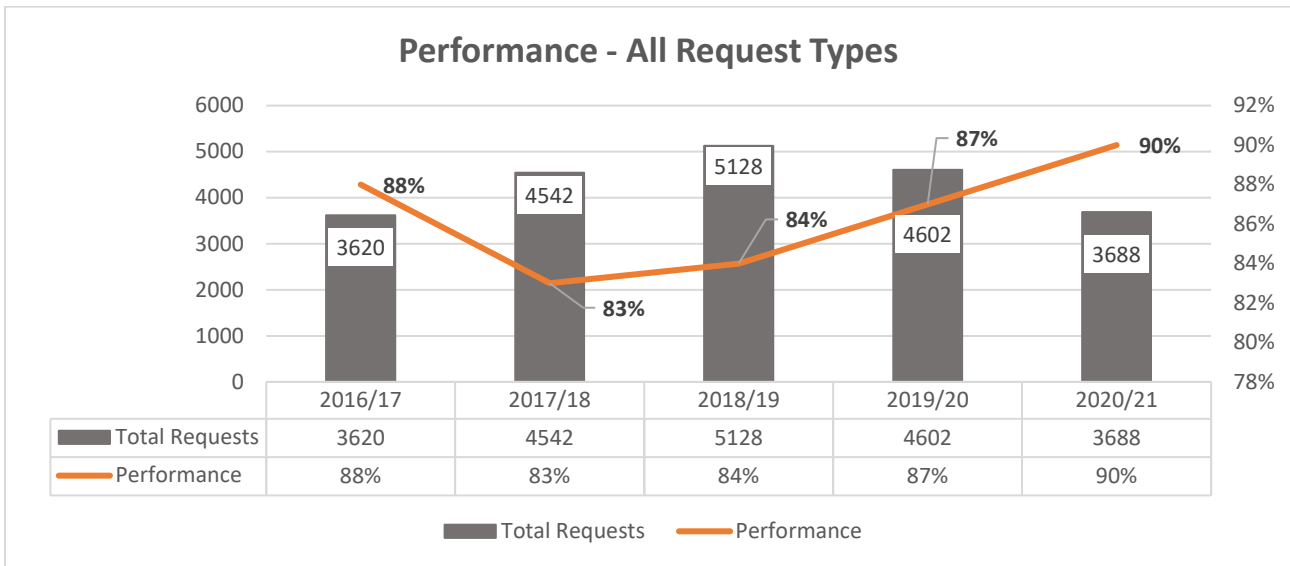

Performance - All Request Types

	2016/17	2017/18	2018/19	2019/20	2020/21
Total Requests	3620	4542	5128	4602	3688
Performance	88%	83%	84%	87%	90%

Figure-2 – FC Requests Performance 2016/17 – 2020/21

3.6 Predicting when requests will be made to Fife council is not possible, as each month the number received changes. This can be due to various factors such as elections, winter conditions etc. This removes the ability to fully plan in relation to workload and can cause delays to responses being provided within the required timescales when a large number is received during a month. Figure 3 below shows the requests received by month during 2020/21
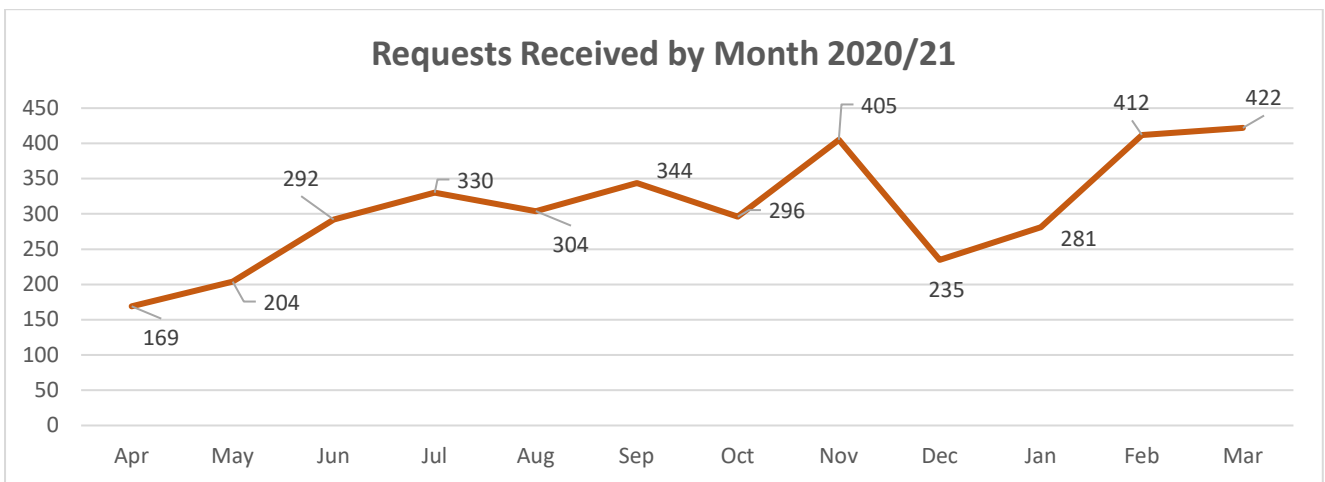

Requests Received by Month 2020/21

Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
169	204	292	330	304	344	296	405	235	281	412	422

Figure 3 – Information Request Monthly by Request type

3.7 All requests are individual, and although some requests can be dealt with speedily, most requests are complex and time consuming. Some reasons for this may be due to the number of questions within each request, the sensitivity of the subject, or the number of services/locations required to be contacted for information.

3.8 It is normal for figures to drop in December and January. However, requests received in April were dramatically below average figures. By July, these numbers had begun to rise again. The dip seen in the first lockdown did not take place in the second and numbers being received in March were the highest of the year.

3.9 Figures 4 and 5 below show the number of FOISA/EIR requests received during 2016/17 – 2020/21 and the performance of these request types during this time.
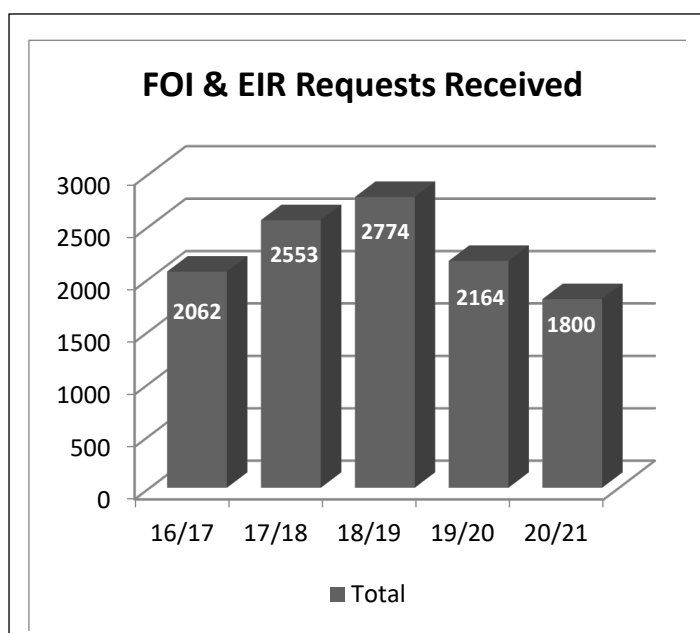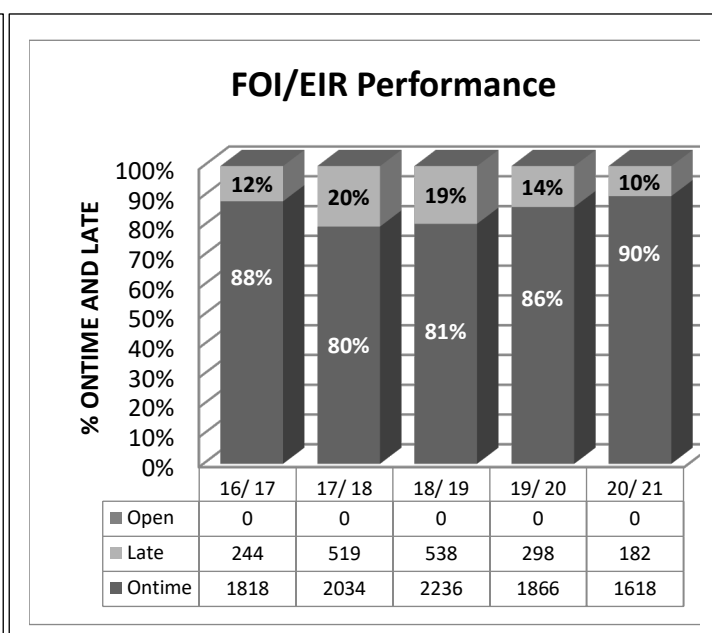

Figure 4 –FOI/EIR received

Figure 5 FOI/EIR Performance

	16/17	17/18	18/19	19/20	20/21
Open	0	0	0	0	0
Late	244	519	538	298	182
Ontime	1818	2034	2236	1866	1618

3.10 As explained in 3.4, a process change in 2018/19 relating to the way FOI's and EIR's are logged shows the numbers to look as if they declined. Requests are still dealt with under both regimes when required, however these are now only logged once.

3.11 Below figures 6 & 7 show details for SAR's received by the Council and our performance between years 2016-17 to 2020/21.
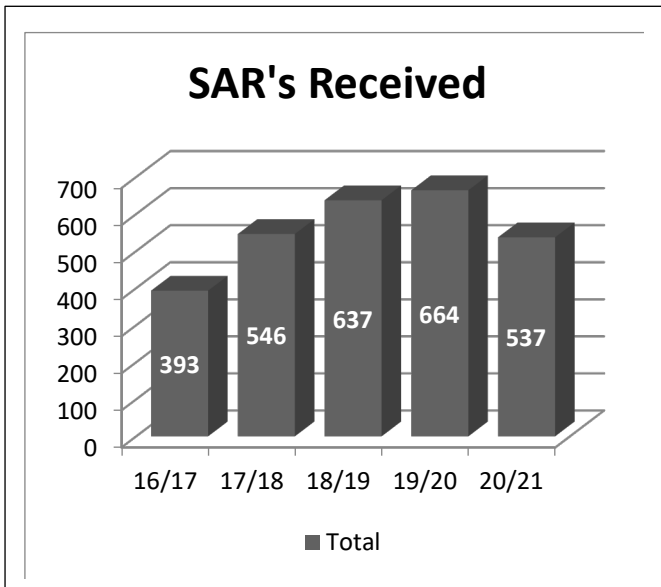

SAR's Received

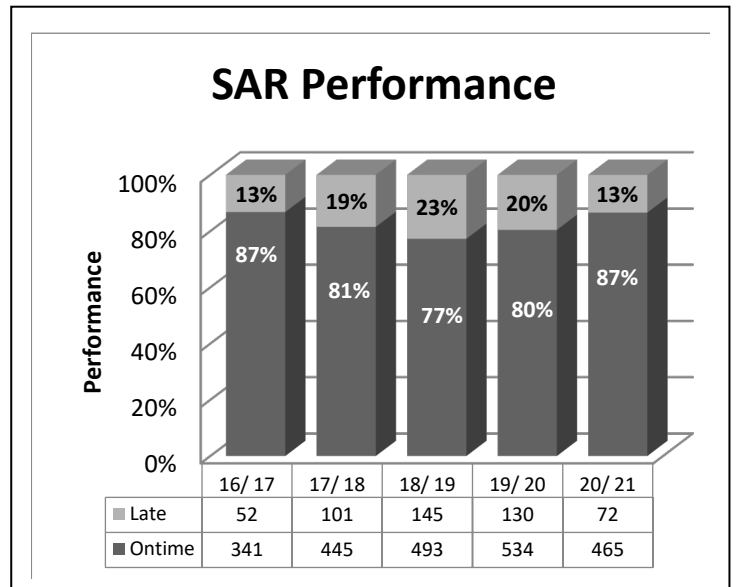| Year	Total
16/17	393
17/18	546
18/19	637
19/20	664
20/21	537

SAR Performance

	16/ 17	17/ 18	18/ 19	19/ 20	20/ 21
Late	52	101	145	130	72
Ontime	341	445	493	534	465

Performance bars: 16/17 – 87% Ontime, 13% Late; 17/18 – 81% Ontime, 19% Late; 18/19 – 77% Ontime, 23% Late; 19/20 – 80% Ontime, 20% Late; 20/21 – 87% Ontime, 13% Late.

Figure 6 – SAR received   *Figure 7 – SAR performance.*

3.12 SARs are particularly time consuming to manage. Although numbers have dropped slightly, this year the number of complex SARs remains too high for the current procedure to manage. In some cases, 10s of thousands of pages are gathered, which then require to be reviewed and redactions considered. A review will be carried out in 2021/22 to address this concern.

3.13 Figure 6 below shows the performance of each area and the % of total requests received by the Council that information has been provided for.

3.14 As previously explained in past reports, the largest volume of requests shown in figure 6 relate to Finance and Communities Services. This is due to the number of s2 requests that are dealt with by Council Tax team and Housing. Due to a change in management of Revenue Services, Communities total received has risen over the past year and Finance has reduced.

3.15 Section 2 requests are requests for personal information made to us by third parties. These are mainly made to us by the Police requesting information that may be held by Fife Council that they cannot access by any other means.

3.16 Service performance is shown below in figure 8. This shows the overall number of requests received for directorates and provides the percentage of the overall requests received that each area provided information towards.
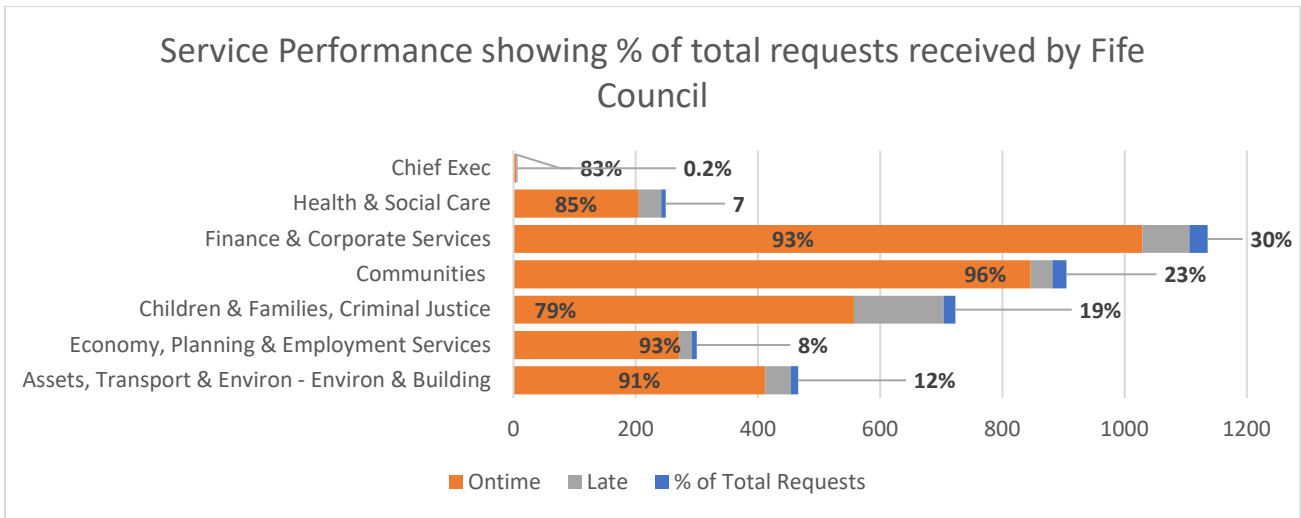
Figure 8 - above shows the requests received by each Directorate for 2020/21.

3.17 Figure 9 below shows recent data that has been gathered showing the reason requests were late and the requests that required to be escalated within the service. Escalation is shown as a total number of requests each Service provided data for and the % of those that required to be escalated. Reasons for lateness are recorded as being caused by Service, IMRT or Other. Due to the way requests are recorded, these may show a request being late for a Service, but the delay may have been caused by a different Service, these are logged as other.
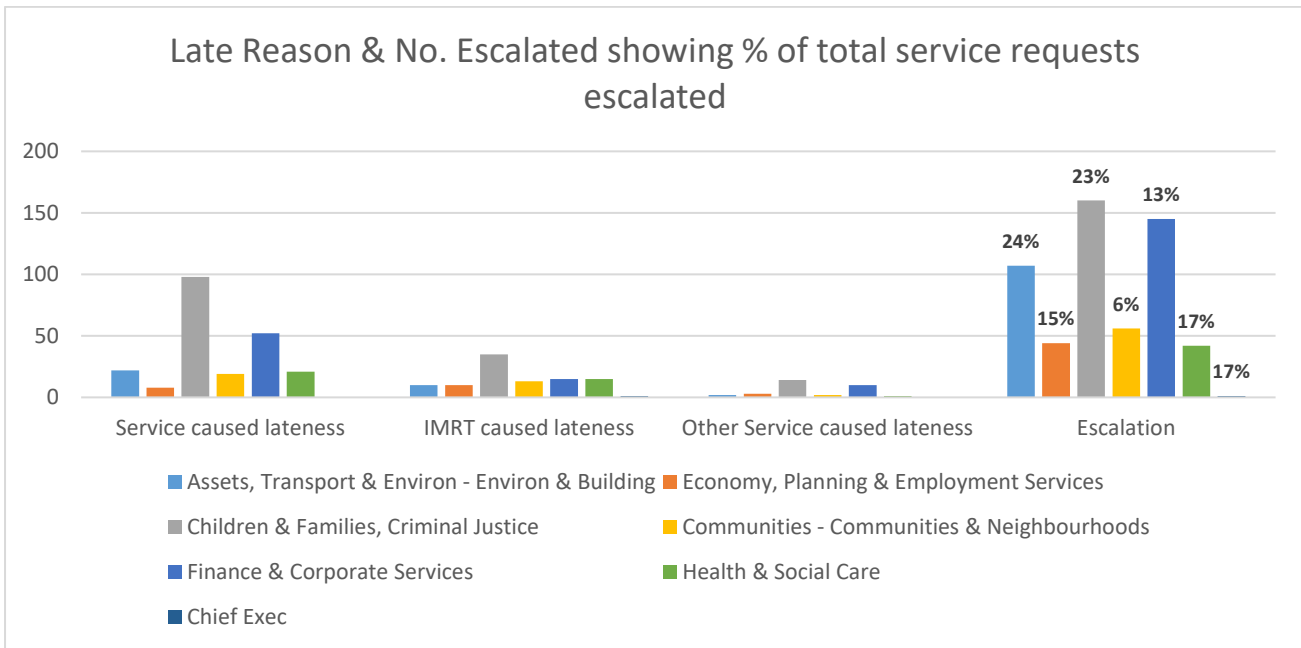

Figure 9 – reason for lateness and % of requests escalated by service

3.18 A fuller breakdown by all services can be found in Appendix 1, this shows performance by each business unit logged on aspIRe, our case management system.

4.0 Reviews & Applications 2020/21

Reviews

4.1 Once an applicant has requested information from the Council and they are either dissatisfied with the response, or the response has not been provided within timescale, then under Section 20 of FOISA and Article 15 of GDPR they are entitled to request that a review is carried out by the Council. Reviews are mostly triggered because the requestor is unhappy with:

- The content of the response.
- The way in which the request was processed.
- A breach of the statutory timescales.

4.2 Reviews are conducted by a Senior Council Officer and are not carried out by the same person that responded to the initial request. Within Fife Council, the Head of Legal Services is responsible for carrying out reviews.

4.3 In 2020/21 reviews received decreased by 28 compared to 2019/20. Figure 10 below shows the number of reviews received by month broken down by SAR and FOI/EIR.
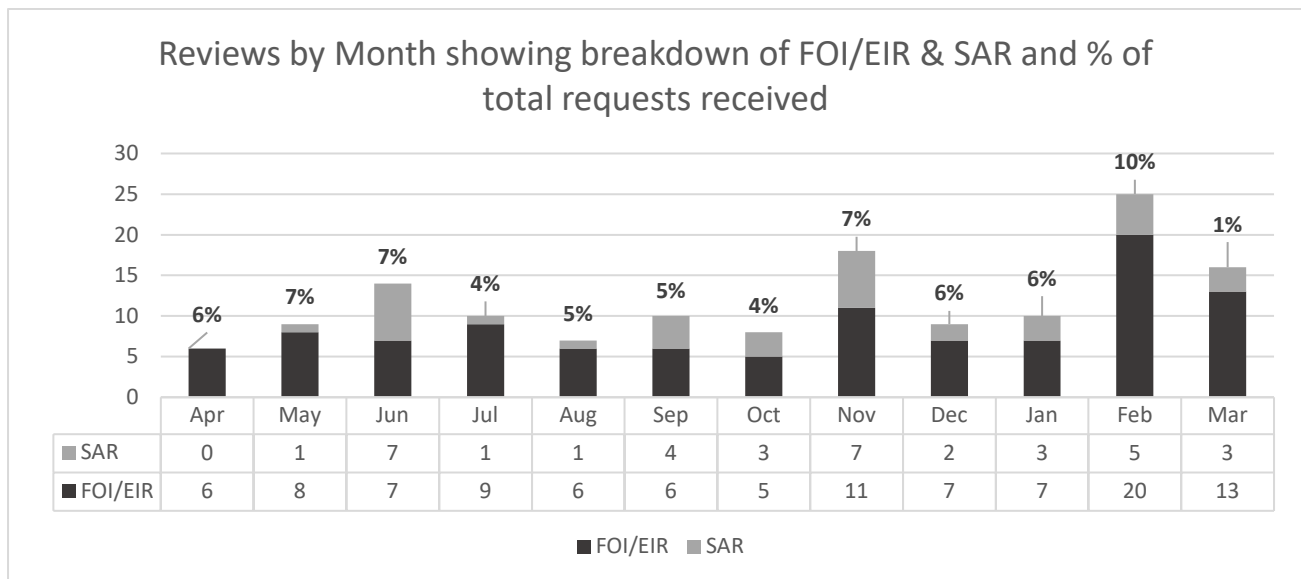

Reviews by Month showing breakdown of FOI/EIR & SAR and % of total requests received

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
SAR	0	1	7	1	1	4	3	7	2	3	5	3
FOI/EIR	6	8	7	9	6	6	5	11	7	7	20	13

■ FOI/EIR ■ SAR

Figure 10 - FC Request for Reviews by Month 2020/21

4.4 Figure 11 below shows the comparison of reviews received over a 5 year period.
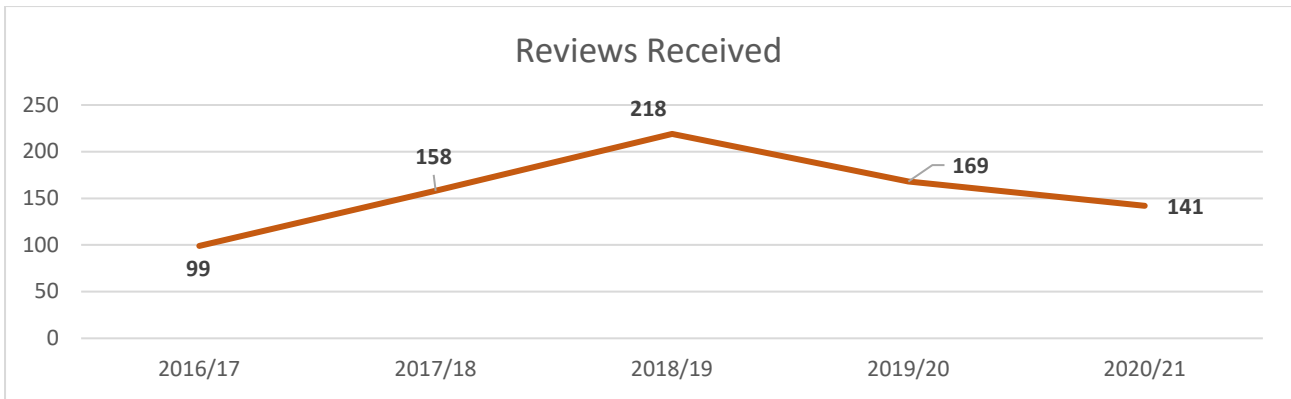
Figure-11 FC Requests for Reviews 2016/17 – 2020/21

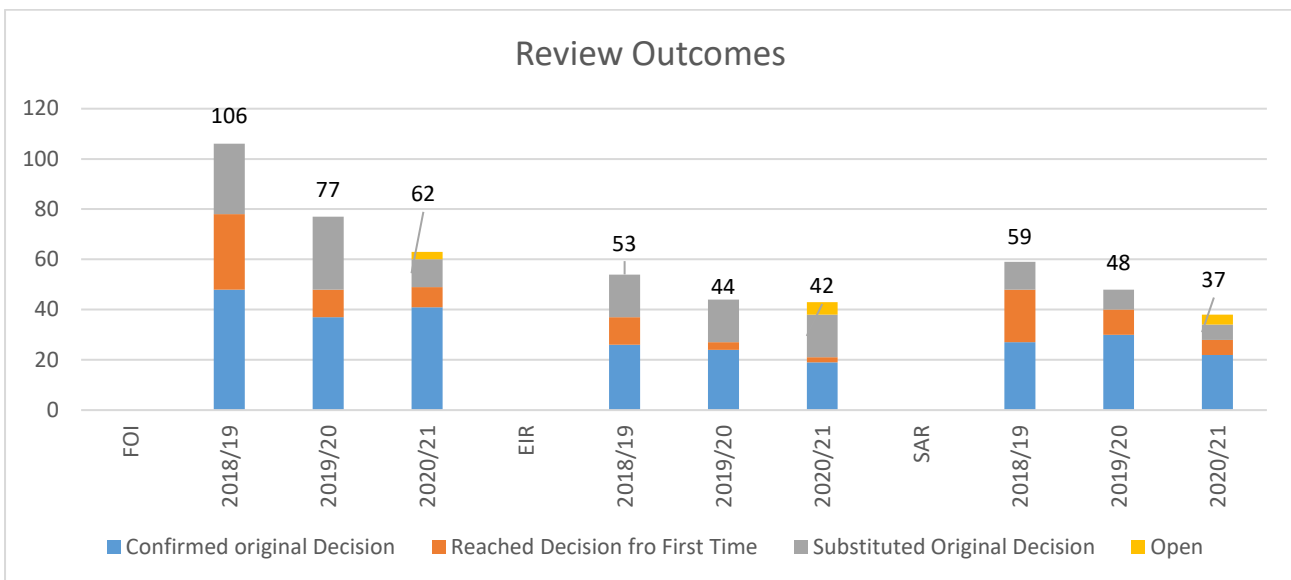4.5 Figure 12 below shows the review outcomes over a 3 year period.

Figure-12 FC Review Outcomes 2018/19 – 2020/21

Applications to Scottish Information Commissioner (FOISA & EIR Requests)

4.6   If an Applicant remains dissatisfied with the way the Council has responded to their request for review, they can refer their case to OSIC and apply for a Decision on how their request was dealt with.

4.7   In 2020/21 applications for decision to OSIC rose dramatically. At the time of writing the report 10 out of the 13 applications remain open and 3 were withdrawn after further clarification or information was provided to the applicant.

Applications to Information Commisioners Office (DPA Subject Access Requests)

4.8   If an applicant remains dissatisfied with the result of a review which is classified as a Subject Access Request, this falls under the remit of the ICO.

4.9 Figures 13 & 14 below show a breakdown of the applications/appeals received and the outcomes from OSIC. Outcomes given are different between ICO and OSIC. The outcomes from ICO investigations all reached satisfactory conclusions.
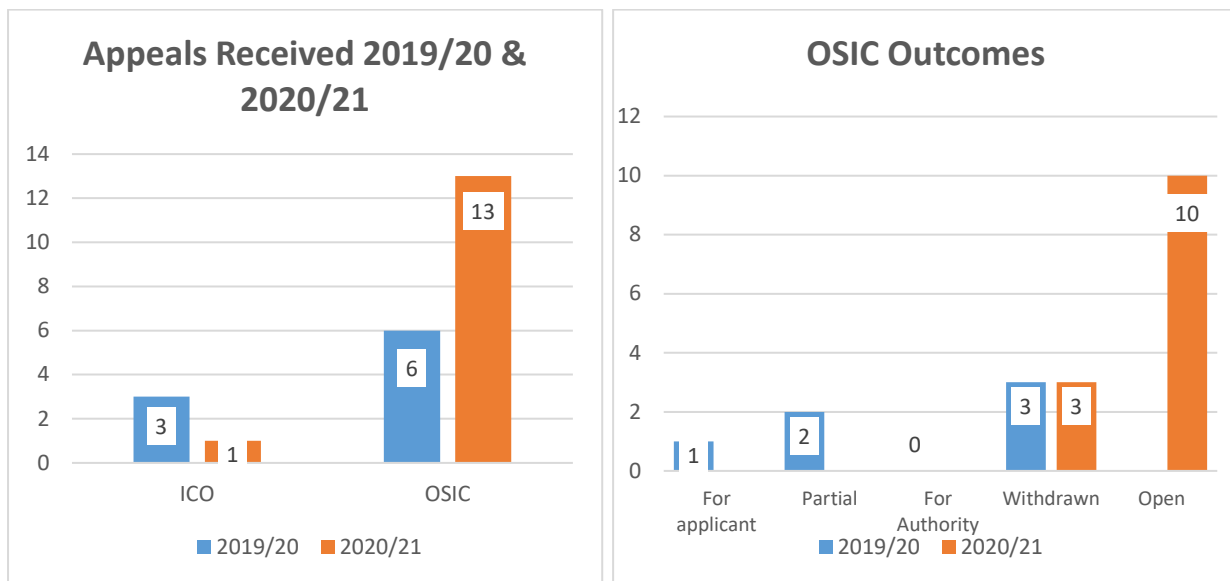

Figure-13 shows number of applications/complaints received

Figure-14 shows outcome of OSIC applications

4.10 In conclusion, figure 15 below shows the number of requests received that had the provision to be reviewed. This graph also shows the % of the total that relates to the number of reviews and applications/appeals received.
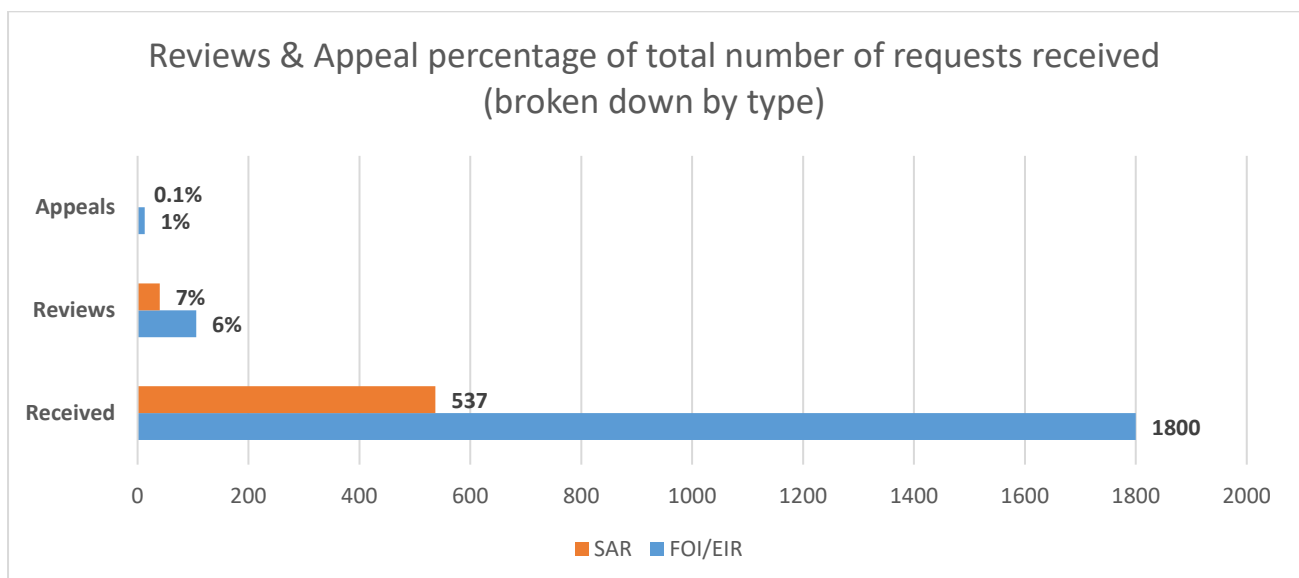

Figure-15 Total of number of requests received and the percentage of reviews and appeals from the overall totals.

5.0 Scottish Local Authority comparison 2020/21

5.1 All public authorities are requested to report statistical information to OSIC quarterly. Figure 16 below shows the total number of FOI/EIR's received by all local authorities and the performance achieved by each council. The local authorities are shown in order of population of the council area. Further information can be found at: https://stats.itspublicknowledge.info/
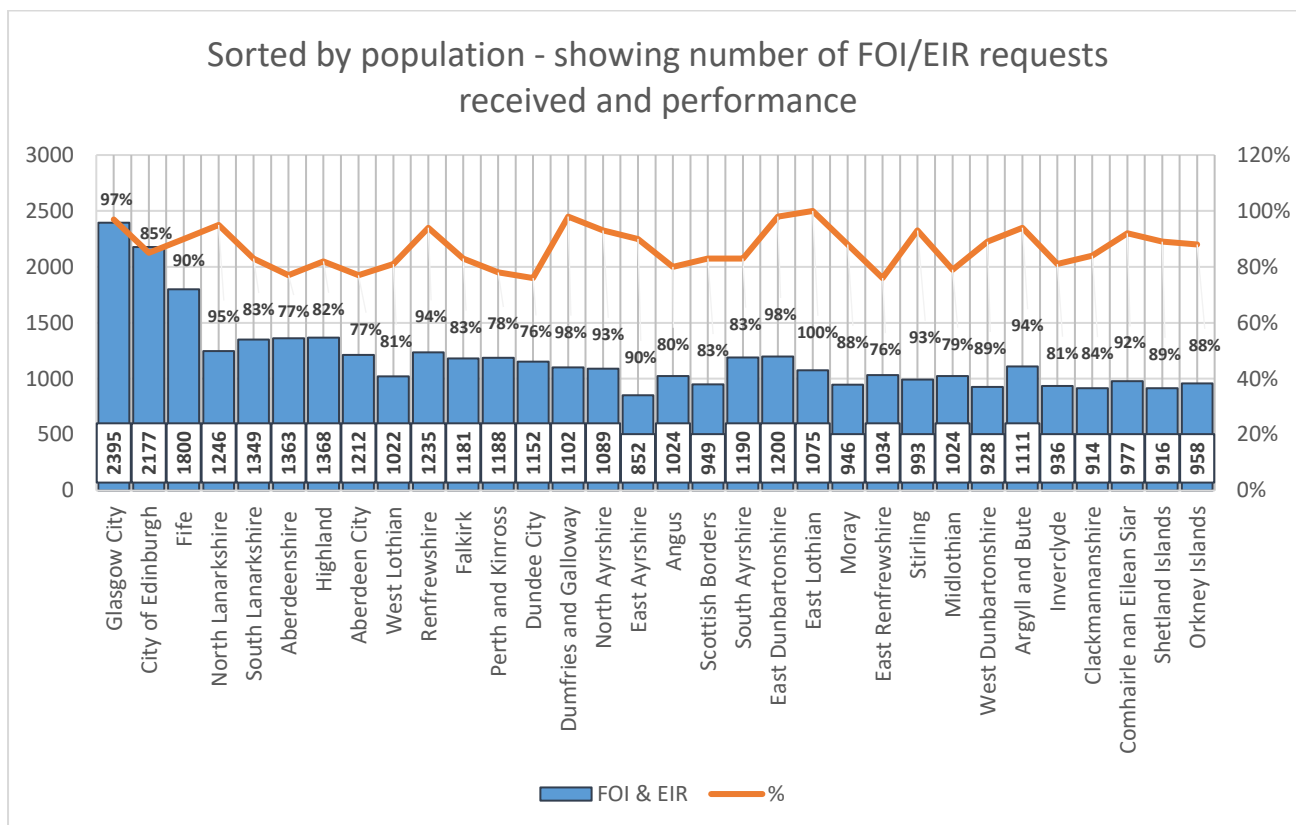

Figure 16 – Scottish Local Authority Information Requests 1 April 2020 – 31 March 2021

5.2 The chart above and the one below show that number of requests being received do not always relate to the size of the authority. There could be various factors for this such as how requests are managed and recorded, or particular events taking place in their local areas.

5.3   A request was made to all local authorities for accurate FOI/EIR data and to provide information relating to SAR performance, however only 16 responses were received.

5.4   Where data was not supplied, the information was taken from the Scottish Information Commissioners website. However, time taken to respond to SAR is not available on this website. In 5 instances, local authorities had not recorded the number of SAR's received on this site and have been removed from the data below.

5.5   Figure 11 below shows the comparison between the number of SARs received by each local authority. Those without % did not provide SAR performance data in response to our request.   As above, the Authorities are sorted by population.
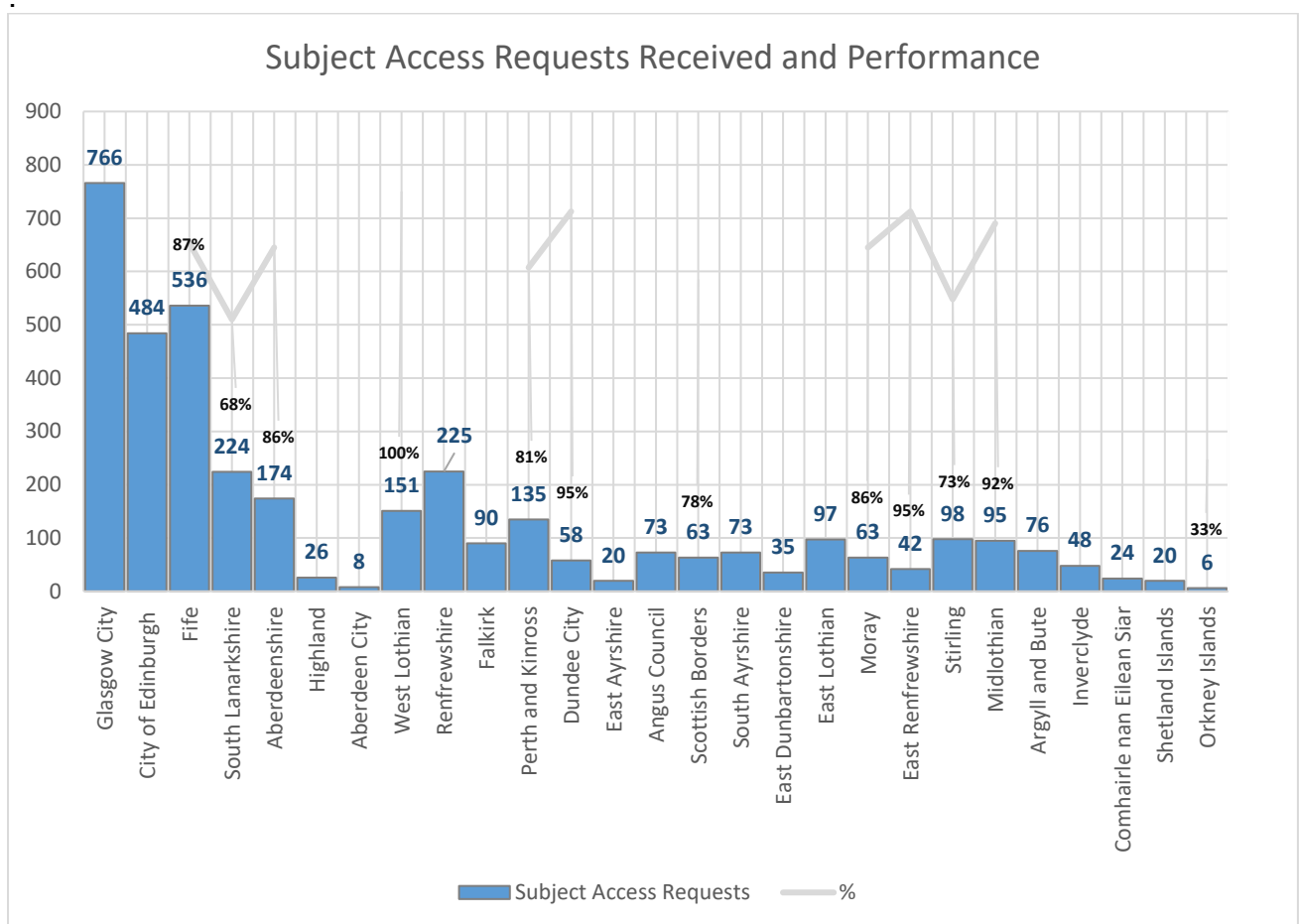
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Figure 17 – shows the number of SAR's received by Local Authorities during 2020/21

6.0 Conclusions

6.1   Fife Council's level of performance when processing information requests over the past year has increased slightly. This is due to improved processes; service reporting and support being provided to the team by 3 Improvement Assistants.

6.2   Cultures and behaviours are improving in relation to the relevant regimes, however further work is still required for this to be fully addressed.

6.3   Although the council remains below the expected 95% performance by OSIC and ICO, improvements being made are continuing to increase our annual performance over the current year.

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