Standards, Audit and Risk Committee

Committee Room 2, Floor 5, Fife House, North Street, Glenrothes – Blended meeting

Thursday 22 August, 2024 - 10.00 a.m.

AGENDA

		Page Nos.
1.	**APOLOGIES FOR ABSENCE**	
2.	**DECLARATIONS OF INTEREST** – In terms of Section 5 of the Code of Conduct, members of the Committee are asked to declare any interest(s) in particular items on the agenda and the nature of the interest(s) at this stage.	
3.	**MINUTE –** Minute of the meeting of the Standards, Audit and Risk Committee of 28 June 2024	3 - 6
4.	**COMPLAINTS UPDATE** - Report by the Executive Director, Communities	7 - 33
5.	**INFORMATION REQUESTS ANNUAL REPORT 2023-24** – Report by the Head of Customer and Online Services	34 - 54
6.	**DATA PROTECTION OFFICER ANNUAL REPORT** – Report by the Data Protection Officer, Legal and Democratic Services	55 - 64
7.	**REGULATION OF INVESTIGATORY POWERS SCOTLAND (RIPSA) ACT 2000** – Verbal update by the Head of Legal and Democratic Services	
8.	**STANDARDS, AUDIT AND RISK COMMITTEE WORK PLAN** - Report by the Executive Director, Finance and Corporate Services	65 - 68

Members are reminded that should they have queries on the detail of a report they should, where possible, contact the report authors in advance of the meeting to seek clarification.

Lindsay Thomson
Head of Legal and Democratic Services
Finance and Corporate Services

Fife House
North Street
Glenrothes
Fife, KY7 5LT

15 August, 2024

If telephoning, please ask for:
Wendy Macgregor, Committee Officer, Fife House 06 (Main Building)
Telephone: 03451 555555, ext. 442178; email: Wendy.MacGregor@fife.gov.uk

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BLENDED MEETING NOTICE

This is a formal meeting of the Committee and the required standards of behaviour and discussion are the same as in a face to face meeting. Unless otherwise agreed, Standing Orders will apply to the proceedings and the terms of the Councillors' Code of Conduct will apply in the normal way

For those members who have joined the meeting remotely, if they need to leave the meeting for any reason, they should use the Meeting Chat to advise of this. If a member loses their connection during the meeting, they should make every effort to rejoin the meeting but, if this is not possible, the Committee Officer will note their absence for the remainder of the meeting. If a member must leave the meeting due to a declaration of interest, they should remain out of the meeting until invited back in by the Committee Officer.

If a member wishes to ask a question, speak on any item or move a motion or amendment, they should indicate this by raising their hand at the appropriate time and will then be invited to speak. Those joining remotely should use the "Raise hand" function in Teams.

All decisions taken during this meeting, will be done so by means of a Roll Call vote.

Where items are for noting or where there has been no dissent or contrary view expressed during any debate, either verbally or by the member indicating they wish to speak, the Convener will assume the matter has been agreed.

There will be a short break in proceedings after approximately 90 minutes.

Members joining remotely are reminded to have cameras switched on during meetings and mute microphones when not speaking. During any breaks or adjournments please switch cameras off.

THE FIFE COUNCIL - STANDARDS, AUDIT AND RISK COMMITTEE – BLENDED MEETING

Committee Room 2, Floor 5, Fife House, North Street, Glenrothes

28 June 2024 **10.00 am – 12.15 pm**

PRESENT: Councillors Dave Dempsey (Convener), Tom Adams, Lesley Backhouse, Al Clark, Brian Goodall (substituting for Councillor John Beare), Sarah Neal and Gordon Pryde.

ATTENDING: Eileen Rowand, Executive Director Finance and Corporate Services, Elaine Muir, Head of Finance, Laura Robertson, Finance Operations Manager, Tracy Hirst, Finance Business Partner, Anne Bence, Accountant, Richard Lee, Accountant, Paul Noble, Accountant, Neil Sneddon, Financial Analyst, Finance Operations and Fiona Watson, Accountant, Financial Services; Pamela Redpath, Service Manager - Audit and Risk Management Services, Shona Slayford, Audit Team Manager, Hazel Hastie, Auditor andCarolyn Ward, Audit Team Leader, Audit and Risk Management Services; Nigel Kerr, Head of Protective Services andGary Nicoll, Service Manager - Building Standards and Public Safety; Sarah Roxburgh, Community Manager (Strategy and Commissioning) and Sharon Murphy, Community Investment Manager, Communities and Neighbourhoods Service; Val Millar, Manager - Communications and Customer Insight; Andy Milne, Service Manager – BTS Technical and Hosting Core; Lindsay Thomson, Head of Legal and Democratic Services, Helena Couperwhite, Service Manager - Committee Services and Wendy MacGregor, Committee Officer, Legal and Democratic Services.

ALSO ATTENDING: Karen Jones, Director of Audit and Assurance and Amy Hughes, Assistant Manager, Public Sector External Audit, Azets Audit Services.

APOLOGIES FOR ABSENCE: Councillors John Beare, Aude Boubaker-Calder and Ann Verner.

95. DECLARATIONS OF INTEREST

No declarations of interest were submitted in terms of Standing Order No. 22.

96. MINUTE

The committee considered the minute of the meeting of the Standards, Audit and Risk Committee of 17 April 2024.

Decision

The committee agreed to approve the minute.

97. ISSUED AUDIT REPORTS

The committee considered a report by the Service Manager, Standards, Audit and Risk Management Services summarising findings from the Internal Audit Reports finalised since the previous meeting of the committee. Any areas of concern were highlighted in the reports and, where applicable, instances where services were not taking appropriate action.

Decision

The committee noted the contents of the report, including the summary of findings detailed at Appendix 1 to the report.

98. 23/24 INTERNAL AUDIT ANNUAL REPORT

The committee considered a report by the Service Manager, Audit and Risk Management Services presenting the 2023/24 Internal Audit Annual Report. The report provided an independent annual internal audit opinion on the overall adequacy and effectiveness of the organisation's governance, risk management and control framework and summarized the key activities from which the opinion was derived.

Decision

The committee noted the contents of the report.

99. FIFE COUNCIL LOCAL CODE OF CORPORATE GOVERNANCE

The committee considered a report by the Executive Director, Finance and Corporate Services seeking approval of the revised Local Code of Corporate Governance.

Decision

The committee:-

(1) approved the updated and revised Local Code of Corporate Governance attached at Appendix 1 to the report; and

(2) noted the associated template at Appendix 2 to the report, which supported the council's annual governance statement process.

100. ANNUAL GOVERNANCE STATEMENT FOR THE YEAR TO 31 MARCH 2024

The committee considered a report by the Executive Director, Finance and Corporate Services seeking approval of the Annual Governance Statement, for inclusion in the unaudited Annual Accounts for the year ended 31 March 2024.

Decision

The committee:-

(1) noted the contents of the report;

(2) approved the Annual Governance Statement included as an Appendix to the report; and

(3) noted that, following approval, the Executive Director,Finance and Corporate Services would include the Annual Governance Statement in the Annual Accounts for the year to 31 March 2024.

101. FIFE COUNCIL UNAUDITED ANNUAL ACCOUNTS 2023-24

The committee considered a report by the Executive Director,Finance and Corporate Services containing the unaudited accounts for Fife Council and its group for 2023-24.

Decision

The committee considered and noted the unaudited accounts for Fife Council and its group for 2023-24.

The committee adjourned at 11.35 am and reconvened at 11.45 am.

102. FIFE COUNCIL CHARITABLE TRUSTS - UNAUDITED ANNUAL REPORT AND FINANCIAL STATEMENTS 2023-24

The committee considered a report by the Executive Director,Finance and Corporate Services containing the unaudited annual accounts for Fife Council Charitable Trusts for 2023-24.

Decision

The committee:-

(1) considered and acknowledged the Fife Council Charitable Trusts 2023-24 unaudited accounts; and

(2) requested Community Managers raise the profile of Trusts funds, in relevant areas of Fife under their remit, to utilise available funding for the benefit of communities.

103. FINANCIAL BULLETIN 2022-23 - FIFE'S POSITION

The committee considered a report by the Head of Finance providing an update on Fife’s position in relation to the Local Government in Scotland Financial Bulletin 2022-23 published by the Accounts Commission in January 2024.

Decision

The committee noted:-

(1) the key messages and recommendations contained within the report; and

(2) Fife’s position and response to the key messages and recommendations.

104. NATIONAL FRAUD INITIATIVE

The committee considered a report by the Service Manager, Audit and Risk Management Services advising of progress to date on the mandatory biennial 2022/23 National Fraud Initiative Exercise and voluntary Pensions Mortality Screening exercises.

Decision

The committee noted the contents of the report and the progress made to date.

105. STANDARDS AUDIT AND RISK FORWARD WORK PROGRAMME

The committee considered a report by the Executive Director,Finance and Corporate Services presenting the workplan for future meetings of the committee.

Decision

The committee noted the contents of the workplan.

22 August 2024
Agenda Item No. 4

Complaints Update

Report by: Mike Enston Executive Director - Communities

Wards Affected: All

Purpose

To provide an update on complaints closed between 1 April 2023 and 31 March 2024 (performance and information)

Recommendation(s)

That the Committee consider the report on complaints received noting the complaints responded to in target timescales and the proportionality of Service complaints.

Resource Implications

There are no direct resource implications arising from this report.

Legal & Risk Implications

There are no direct legal and risk implications arising from this report.

Impact Assessment

An EqIA has not been completed and is not necessary as the report does not propose a change or revision to existing policies and practices.

Consultation

No specific consultation has been carried out in relation to this report however there is continuous consultation with Services through weekly status updates that provide a RAG status of open cases, further responsiveness information is uploaded quarterly to Pentana (the Council's performance management system) through the Performance and Information Team and several areas receive bespoke and ad hoc reporting as requested. CET have also provided scrutiny to much of the information contained in this report.

1.0 Background

1.1 The Council responds to millions of contacts from customers across Fife every year. This figure then puts into context the comparatively small number of corporately defined complaints received. When we do receive complaints, we aim to resolve these quickly, and to learn from feedback to improve future services.

1.2 Reports on customer complaints made to the Council are presented annually to this Committee. We also publicly report complaint performance information quarterly online and benchmark with other local authorities.

1.3 The area highlighted for improvement from the 2022/23 report was improving upon current responsiveness rates, such as targeting poorer performing Services (more effective queue management and professional administrational support).

1.4 Scottish Councils must follow the model complaint handling procedure developed by the Scottish Public Services Ombudsman (SPSO). The model was designed to provide a simpler, more consistent process for customers to follow and encourages local authorities to make best use of lessons learned from complaints. A revised version of the procedure with minor changes was launched in April 2021.

2.0 Performance and Issues Arising from Complaints

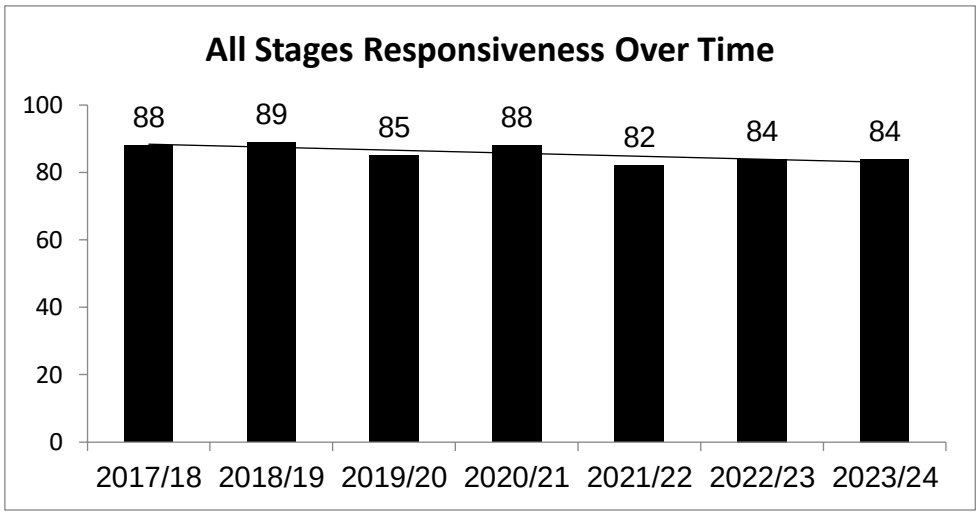
2.1 From the 2,837 complaints received from 1st April 2023 to 31 March 2024, 2,836 were closed (the remaining complaint rolled into the next fiscal year). This is a 4.5% decrease on the same period last year when 2,971 complaints were received. This period's volume is greater than the 2,425 complaints received before the pandemic. There is evidence that a small number of complaints remain attributable to policy and service delivery changes made post pandemic.

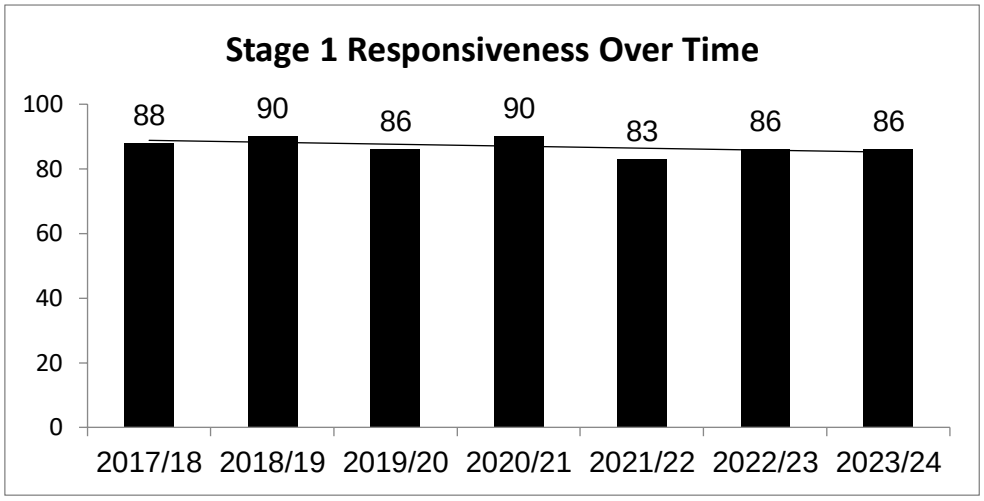
2.2 To improve customer satisfaction and reduce costs, we aim to complete 80% of complaints at Stage 1, and within 5 working days and the remaining 20% at Stage 2, within 20 working days. 81% of complaints were successfully handled at stage 1 in period, 86% of which were handled in the target timescale. The following table provides details of the Council performance to target timescales.

Stage	Total No. of complaints closed	No. closed in target timescales	% closed in target timescales
	2,836	2,385	84% (84% in 22-23)
Stage 1 (5 days)	2,301 (81%)	1,984	86% (86% in 22-23)
Stage 2 (20 days)	535 (19%)	401	75% (76% in 22-23)

2.3 The graphs below show our performance over the last 7 years. The general trend would appear to be one of performance worsening over time despite the spike of 2020/21 caused by high volumes of readily addressable complaints made about service provision during the pandemic. This year sees a continuation in the upturn in

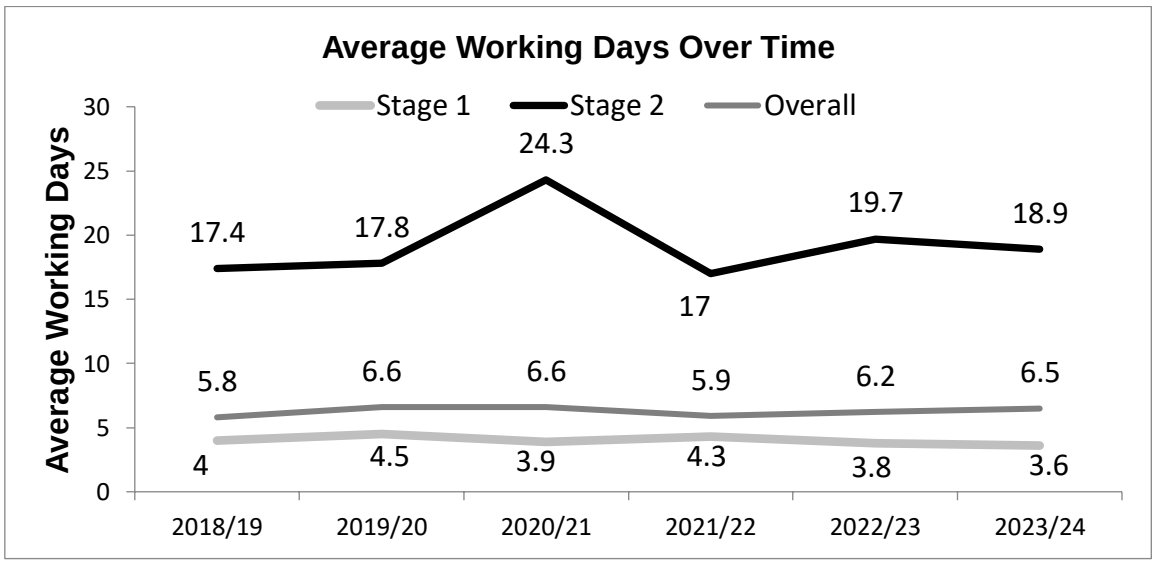
the responsiveness performance of stage 1 cases (5 working days) and therefore the overall performance in terms of responding to all complaints in timescale.





2.4 This period sees improved performance with most Services better than the year before (see 2.9).

2.5 The following graph shows the average working days to close a complaint and that from 2018 we have generally become quicker at responding to stage 1 complaints.



2.6 The following table provides a breakdown of the average working days at each stage by selected Services including complaint volume. The volume context offers some scale between the volume of complaints against the number of Service activities, service uses or customer base. The context was provided by Services and represents activity in this reporting period. The table is ordered by working days all, from longest to shortest. The table shows selected Services in receipt of greater than 95% of all Council complaints. Note that the target timescales for stage 2 cases is 20 working days and some Services' average has exceeded that target. Typically cases that exceed the 20 working days target are those of a more complex and serious nature.

Service	W days St 1	W days St 2	W days All	Total Volume	Volume Context (from 2023/24 data)
Children & Families	4.9	23.1	11.1	97	Approximately 800 looked after children and 2,000 receiving support.
Protective Services	3.1	22.7	17	38	Food and workplace safety alone has >4000 jobs per annum.
Planning	3.4	21.9	18.5	72	4,388 planning applications managed and >500 enforcement cases undertaken.
Education	4.3	20.6	12.1	288	160 schools / establishments (157 schools and 3 PSS provision) with >49,000 pupils
Resource Solutions	3.2	18.3	5	59	>1 million visits to recycling centres.
Housing	4.6	18.1	7	886	Over 30,000 homes owned, 2267 allocations made, over 2715 homeless applications and nearly 78,000 repairs.
Roads & Transportation	3.7	15.2	5.1	346	2,400km of roads maintained, approximately 40,000 square metres of repairs from >10,000 issues identified.
Catering Cleaning & Facilities Management	3.2	14	3.4	47	Every day regularly clean around 200 buildings and public toilets, serve 27,000 meals across schools, deliver 700 meals on wheels.
Building Services	3.4	13.3	3.8	262	>181,000 repair jobs undertaken.
Grounds Maintenance	3.1	13	3.4	108	>4000 jobs per annum (grass cutting, street cleaning etc).
Contact Centre	2.5	12	2.7	50	>122,000 repair calls and >37,000 emails, 159,000 calls to general team & >200,000 community alarm calls
Financial Wellbeing & Revenues	2.8	10.3	4.1	133	Over 118,000 annual calls managed, Housing Benefit caseload of 15,098, Council Tax Reduction caseload of 30,395 and

Service	W days St 1	W days St 2	W days All	Total Volume	Volume Context (from 2023/24 data)
					175,331 chargeable dwellings for council tax.
Domestic Waste	2.1	7.8	2.3	336	>13 million bins serviced.
Total (includes remaining Services)	**3.7**	**18.9**	**6.5**	**2,836**	

2.7 Complaints that necessarily run into extra time (procedural extensions) are counted for statistical purposes as having not met the target timescales of 5 or 20 working days. Customers are however generally informed when an extension becomes strictly necessary. The procedure allows for such extensions. Overall, 72% of cases detailed in this report as out of timescale were procedurally given extensions. When these extensions are factored into a within timescale calculation then 94.5% of all complaints were in a timescale allowed by the procedure.

2.8 Arguably the customer experience will be impacted the longer it takes to provide a formal response. Protracted complaint investigations that ultimately provide a decision of not upheld will impact upon customer satisfaction and possibly account for some of the lower satisfaction survey results (see 4.0).

2.9 The table shows complaint responsiveness by the Services / departments in receipt of approximately 95% of FC complaints. Ordered by percentage all in timescale, worst to best. Please note that 6% of all complaints were attributed to sub-contractors (161 out of the total of 2,836 (nearly doubled from last year). Mostly supporting Housing, Building Services and Roads & Transportation).

Service	Vol Stage 1	% Stage 1 in Timescale	Vol Stage 2	% Stage 2 in Timescale	Total Vol 23/24	Total Vol 22/23	% Complaints upheld /partially upheld	% All in timescale 2023/24	Adjusted for Extension	% All in timescale 22/23	Change from last year
Children & Families	64	71.9%	33	54.5%	97	94	66.0%	66.0%	88.7%	61.7%	7.0%
Planning	13	100.0%	59	69.5%	72	63	75.0%	75.0%	98.6%	71.4%	5.0%
Housing	729	75.4%	157	79.6%	886	781	76.2%	76.2%	91.4%	80.7%	-5.6%
Education	150	83.3%	138	68.8%	288	236	76.4%	76.4%	97.2%	68.2%	12.0%
Protective Services	11	90.9%	27	74.1%	38	25	78.9%	78.9%	86.8%	92.0%	-14.2%
Sustainability	52	84.6%	7	85.7%	59	115	84.7%	84.7%	89.8%	89.6%	-5.5%
Roads & Transportation	303	89.1%	43	86.0%	346	308	88.7%	88.7%	93.6%	79.2%	12.0%
Grounds Maintenance	105	89.5%	3	66.7%	108	121	88.9%	88.9%	94.4%	78.5%	13.2%
Building Services	251	90.0%	11	81.8%	262	343	89.7%	89.7%	95.0%	90.4%	-0.8%
Catering & Facilities	46	93.5%	1	100.0%	47	44	93.6%	93.6%	97.9%	81.8%	14.4%
Bereavement Services	20	100.0%	1	0.0%	21	23	95.2%	95.2%	100.0%	91.3%	4.3%
Contact Centre	49	98.0%	1	100.0%	50	66	98.0%	98.0%	100.0%	95.5%	2.6%
Financial Wellbeing	110	99.1%	23	95.7%	133	115	98.5%	98.5%	100.0%	94.8%	3.9%
Domestic Waste	327	98.8%	9	100.0%	336	489	98.8%	98.8%	99.7%	97.3%	1.5%
Total FC Overall (includes remaining Services)	**2,301**	**86.0%**	**535**	**75.0%**	**2,836**	**2,970**	**47.0%**	**84.0%**	**94.5%**	**84.0%**	**0.0%**

NB: Grey areas highlight a reduction over the previous year and overall responsiveness worse than the Council average.

2.10 The type of service provided by Children & Families, Planning, Housing and Education, does generate more complex cases to be investigated and therefore require using the procedural extensions to respond fully and cover the necessary complexities. Housing's complaints have risen by 13% over last year and Protective Services have also had a 52% rise in volume, together with challenging complaints and complainers is likely to explain the change in performance.

2.11 Escalation & Resolution continued to support Services including providing information, procedural support, qualitative review, and information around performance. They are also engaged daily in reminding Services of due dates in advance of their deadlines, weekly RAG status on cases, and supporting the administration of extensions and maintaining compliance with process and procedure.

2.12 Further in-depth complaint performance information remains in development using Power BI (see 5.2) and consequently quarterly information on performance available to Services has generally lacked fuller detail this period, limited to timescale information uploaded to Pentana (the Council's performance management system) unless Services proactively sought fuller details. The ambition remains to maintain a Power BI dashboard from which Services can apply relevant filters (e.g., geographic areas, team, or departments) to gather insight.

3.0 Learning from Complaints

3.1 One key element of handling complaints is using customer feedback to rectify or improve upon the service provided. Every upheld or partially upheld complaint presents an opportunity for the Council to address the failings identified and this is also a requirement of the procedure.

3.2 Corrective action statements required by the procedure remain challenging where there remain instances where recorded statements refer simply to the outcome of the complaint rather than specific actions that would potentially prevent future reoccurrence. Ideally upheld complaints should contain details of effective counter measures or plans that would attempt to eradicate failures within the limits of resources available.

3.4 There are examples when the Council listens to customer feedback and makes improvements to future service provision. Where complaints were about the actions of employees (behaviour, poor driving, wrong information provided, process / procedure not followed etc.) the complaint has been addressed directly with employees, so they are aware of the impact on their customers.

3.5 The Escalation and Resolution team continues to support customer service through improving responsiveness.

3.6 Over 2023-24 the team have focussed upon:

- Impacting current responsiveness rates, such as targeting poorer performing Services (more effective queue management and professional administrational support).
- Improving compliance to the procedure and supporting Services
- Supporting the Council's Unacceptable Actions Policy and providing advice on how to use the policy and how to approach customers whose behaviours fall foul.

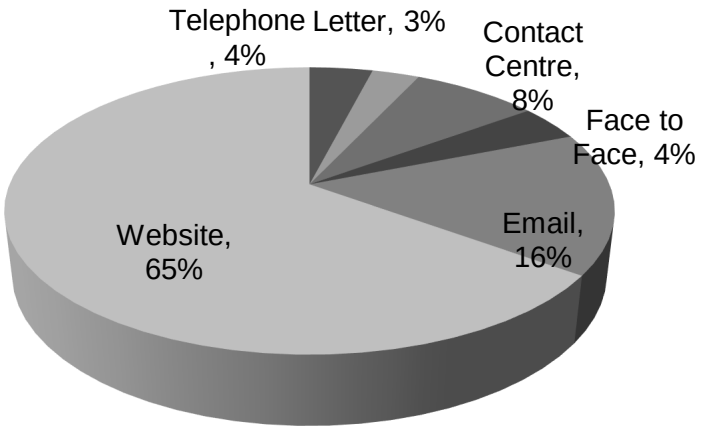
- Providing administrative support to the increasing volumes of MP, MSP and Elected Member enquiries arising
- Bedding in administrative support for Fife's Health & Social Care Partnership

3.7 The approach to consider the quality of complaint handling includes surveying complaints that the organisation did not uphold. This presents a challenge as it is accepted that it may be difficult for complainants to separate out any redeeming features in how this was handled when the Council did not uphold their substantive matter. See section 4 Complaint Satisfaction.

3.8 The following tables provide the details of complaint decisions.

FC Overall	Not Upheld	Partially Upheld	Resolved	Upheld
Overall	35%	17%	17%	30%
Stage 1	32%	15%	20%	33%
Stage 2	50%	27%	4%	19%

3.9 The majority of complaints remain being entered from the online form on our website, the table displays the shift over time towards electronic, best value channels. Social media policy dictates that we do not accept complaints made over this medium however when posts escalate towards a complaint users are signposted to the way they can make a complaint.



% Complaints Received by Channel

	2020/21	2021/22	2022/23	2023/24
Website	78%	73%	71%	65%
C. Centre	3%	3%	5%	8%
Letter / Form	1%	3%	2%	3%
Telephone	3%	6%	5%	4%
Email	14%	14%	16%	16%
Face to Face	1%	1%	1%	4%

4.0 Complaint Satisfaction

4.1 In historic reports before 2021-22 the data used to provide satisfaction with complaint handling was obtained from a more generic transactional survey of four questions emailed out on a four-weekly basis. Following changes to both the Council's website and the customer management system this transactional survey became obsolete with a replacement pending development.

4.2 The complaints procedure requires that complainants are surveyed so the previous generic survey was replaced in January 2022 with a bespoke version that covers standard questions as agreed by the SPSO and the Local Authority Complaint Handlers Network. These questions allow benchmarking amongst network members.

4.3 The complaint satisfaction survey methodology remains from last year and has us ask customers how much they agree or disagree with the following statements generally 4-8 weeks after their complaint has closed.

- Information about the complaint procedure was easily accessible.
- I found it easy to make my complaint.
- I was happy that the person considering the matter fully understood my complaint.
- I was given the opportunity to fully explain my complaint.
- The points of my complaint were identified and responded to.
- The response to my complaint was easy to understand.
- Overall, I was satisfied with the handling of my complaint.
- I was told if the response was going to take longer than the set timescales (five working days at stage 1 and 20 working days at stage 2).
- I was clearly told what the next stage of the complaints process was for me.

4.4 The survey requires a manual issue of these questions by email however has the added benefit over the historic generic transaction survey as the text from a complainant's actual complaint is given in the invitational email as a reminder to make the survey more focussed.

4.5 There were 475 responses (down from 587 returned last year), and a breakdown of some general comments included the following. It is worth noting that like last year around 10% of comments in some manner referenced the council's failure to respond or matters remaining unaddressed. Given the methodology used to gather this information (see 4.8) it is impossible to decide on the accuracy of such statements however their presence remains concerning. An additional question now added into the survey may potentially support looking for evidence of failures.

Positive

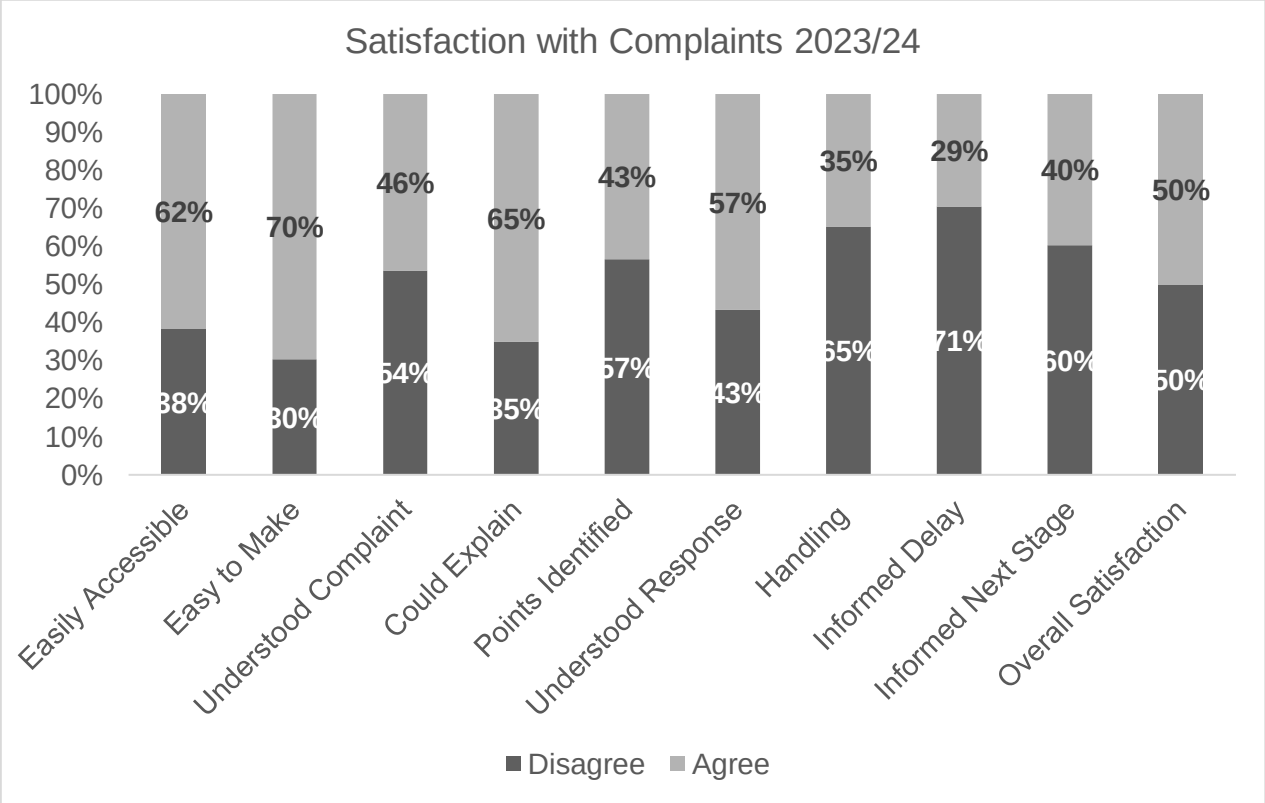
- Excellent! 110% satisfaction. Thank you.
- The person who dealt with my complaint was very helpful.
- My complaint was answered in a timely manner.
- If only other complaints were that easy to report and get results from.
- Professional and friendly outcome. Thank you.
- Easy process that gets an answer quickly.
- Everything was dealt with and sorted out.

Negative

- Horrible response and not a care in the world from Fife Council

- Incredibly unhelpful staff
- Handled terribly and still not resolved.
- Took a long time to get matter resolved.
- The issues were not fixed, and I am still waiting. Fife council have become a joke.
- Absolutely shocking service.
- Very disappointed.

4.6 Overall satisfaction was 50% and is slightly better than last year's figure of 49% noting that the response volumes are slightly lower than the previous year. Satisfaction with each question is as shown on the following graph.



4.7 It would appear from the graph that improvement is required in carefully identifying the full complaint made from a complainant and thereafter adequately addressing those. We would also benefit from being more effective with extensions (when necessarily required), expressing potential delays as soon as possible and stage 1 email responses detailing what the next steps for a complainant would be should they remain dissatisfied following a stage 1 response. Based upon the comments received Services should take particular care that responses are provided and delivered accurately and carefully cover the substantive matter raised in the complaint.

4.8 The methodology used for the survey does not align a complaint reference number back to any responses received. This is due to GDPR, and the storage method used for satisfaction as the data is captured using Microsoft Forms against a single officer's account. It would not be considered secure or an appropriate place to store a customer's personal data. The survey is therefore fit for wider organisational learning in contrast to the previous version where Services could see satisfaction with their own complaint handling.

5.0 Other Customer Issues

5.1 The complaints procedure includes a clear definition of a complaint which means that some issues are recorded as fault reports or requests for service rather than as complaints.

5.2 Missed bins are generally considered as complaints however given the complexity and volumes, these are logged outside of the complaints system unless there is clear evidence of repeated failures or broader issues that are more than a missed collection.

Enquiry Type	Volume 2019/20	Volume 2020/21	Volume 2021/22	Volume 2022/23	Volume 2023/24	Remarks
Missed Bins	9,434	10,223	9,894	7,042	7,822	Actual complaints around missed bins will overlap with service requests.

5.3 Historically (until Oct 2022) the table above included data on street cleaning requests, reports of illegal dumping, dog issues and abandoned vehicles amongst others. Data provided has always come with the caveat that this was a very simple database extract and likely different data from what would be expressed by owning Services. The difference would be in terms of job sheets issued or capturing requests through other channels made directly into Services. Annual figures for all of Fife Council such as illegal dumping, grounds maintenance requests etc. are available. Committee members are likely to see reports from Safer Communities at Local Area Committees where data around these enquiry types is provided at the local level. Additional information may be available from the Place Directorate and Section/Service Performance Reports.

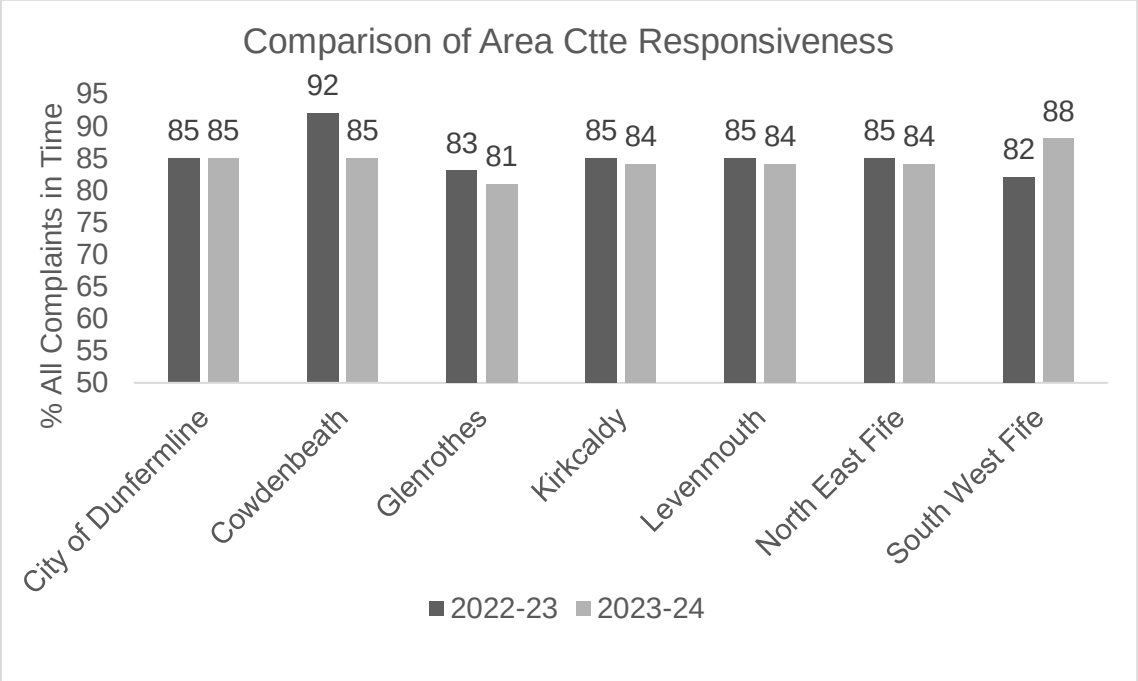
5.4 The following table provides the latest comparison of the volume of main Service complaints by area (presented per million of the population to provide better readability). Note that complaints made anonymously or from outside of Fife are not attributed to any Area Committee (therefore the grand total will not sum to 2,836 complaints). Population information copied over from last year's report.

Area Committee	Dunfermline	Cowdenbeath	Glenrothes	Kirkcaldy	Levenmouth	North East Fife	South West Fife
Population Volume	56,832	41,288	50,257	60,214	37,288	74,674	49,777
Service Complaints by 1Million Population	Per 1M	Per 1M	Per 1M	Per 1M	Per 1M	Per 1M	Per 1M
Audit & Risk	18	0	0	33	54	0	20
Bereavement	35	73	80	17	80	27	20

Area Committee	Dunfermline	Cowdenbeath	Glenrothes	Kirkcaldy	Levenmouth	North East Fife	South West Fife
Building	563	848	577	631	1019	670	542
Business	0	0	0	0	0	13	0
Catering &	0	24	40	149	80	67	20
CLD	18	73	60	17	27	0	40
Contact Centre	53	170	139	133	107	107	141
Asset	0	0	0	0	0	13	0
Customer Service	35	0	40	17	0	54	40
Domestic Waste	704	896	756	864	590	924	643
Children Families	352	121	199	199	349	94	261
Criminal Justice	0	0	20	0	0	13	0
Education	493	339	677	365	510	147	442
Wellbeing	317	291	179	399	268	268	241
Grounds	211	170	179	233	375	268	181
Housing	2164	3124	2726	2458	2414	1366	1366
IT Services	0	0	20	0	0	0	0
Legal Services	0	24	0	0	0	13	20
Local Office	0	170	119	33	27	0	20
Planning	18	48	159	66	107	281	261
Procurement	0	0	0	0	0	0	20
Property	0	24	0	0	0	0	20
Protective	70	145	20	50	80	40	0
Transportation	1126	630	537	797	563	737	723
Sustainability	88	48	119	66	107	187	121
Total	**6264**	**7218**	**6646**	**6527**	**6758**	**5290**	**5143**

5.5 The table identifies in bold the top 3 Services in receipt of complaints over all Committee areas. Housing Service and Domestic Waste feature as the top Services for complaints in all Committee areas.

5.6 There is some variation in area responsiveness to complaints. This ranges from 88% (up from 82% in 2022-23) of all complaints responded to in timescale in the South & West Fife area down to 81% (down from 83% in 2022-23) of all complaints responded to in timescale in the Glenrothes area.



5.7 Each local Area Committee will see their own complaint performance paper that provides performance data based upon the postcode of the complainant.

6.0 Progress and Future Improvements

6.1 In the September 2023 Complaint Update paper to CET (which then forms this paper) there were 3 areas of continual improvement detailed and 1 area for future development.

1. Power BI development – complaint dashboard
2. Engagement with Services to support improvement, e.g., procedure, performance, and process.
3. Transfer of H&SC complaint administration from Business Support to the Escalation & Resolution Team
4. Child friendly complaint procedure (future development)

6.2 Power BI development remains in development following a challenging year of other pressures including complaint complexity and challenging customers (see 6.6).

6.3 Direct Service support has been successful over the period with Services building relationships with Escalation & Resolution, the outcomes include:

- Improved understanding of the complaints process.
- Improved data analysis, leading to trend identification.
- Improvement planning and actions associated with data analysis.

The portfolio approach to team members providing administration for their areas has allowed for individual advice on issues arising. Several Services receive bespoke weekly reports of pending and due cases supporting better responsiveness.

6.4 Escalation & Resolution have successfully transferred the administration of H&SC complaints over from Business Support staff and remain refining this process. Areas

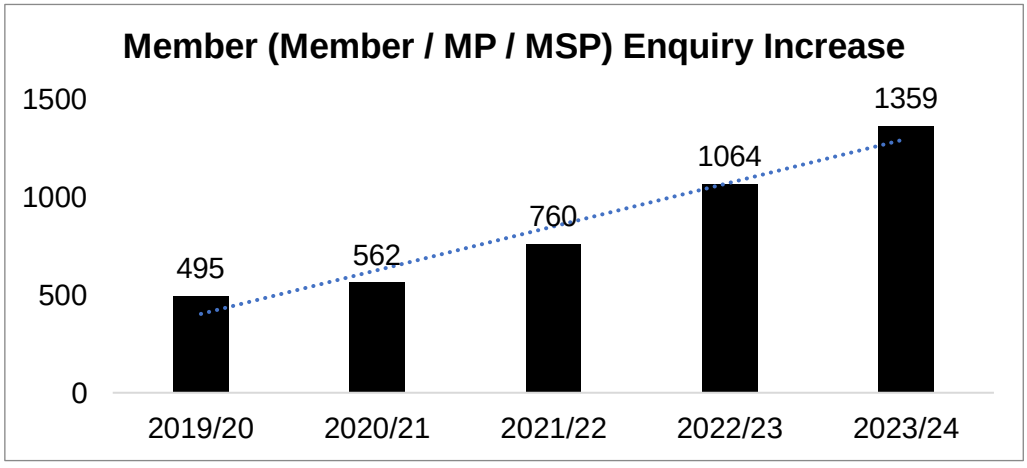
within H&SC are starting to benefit from complaint reporting and holistically H&SC benefits from a weekly RAG status of cases supporting responsiveness.

Future improvements / challenges

6.5 Plans into 2024 include the introduction of the SPSO's Child Friendly Complaint Procedure. The Council is currently working within a group of other local authorities to refine guidance and process documentation. Further reading available from https://www.spso.org.uk/news-and-media/child-friendly-complaints. There was a soft launch into the organisation from mid-July following the SPSO's formal launch of their principles and complaint guidance. The aim is to support a "handrail rather than handcuff" approach to fulfilling the principles and cases that require the process will be identified from Escalation & Resolution who will support Services in taking cases through by supplying guidance and documentation.

6.6 This year has seen a steady increase in behaviours from certain customers that the Council has found unacceptable. This has been particularly challenging from various perspectives including the impact on staff morale and the resource required to manage the challenging behaviours presented. A working group began considering our approach from March 2024 and work continues. It is an aim of the group to support the introduction of more robust measures to support staff when faced with challenging customer behaviour. This will include raising awareness of the Unacceptable Actions policy, consideration of Management Rules yet also input from HR on the vicarious trauma that can occur when staff are faced with difficult behaviours.

6.7 There has been an increase in the formal requests made through politicians (includes MP, MSP and Elected Members) that the team administers. Escalation & Resolution provide the administration and monitor that responses are provided timeously. The team have latterly started to provide data to some Services on volumes undertaken as responses can require considerable resourcing depending upon the enquiry type. The growth can be shown in the following graph.



6.8 Following an SPSO decision around a complaint concerning the Chief Executive the Council will soon revise our current procedure to align fully with the model complaint handling procedure provided by that office. Currently our local procedure dictates that complaints concerning the Chief Executive are investigated by the Head of Legal and this is not a requirement of the model procedure and therefore will shortly be modified. Complaints concerning the Chief Executive will continue to be adequately investigated by an appropriate officer.

7.0 Conclusions

7.1 Responsiveness (complaints in target timescales) is broadly the same as last year with many Services showing improvement to the 5 and 20 working days targets. When figures are compiled to include extensions valid under the procedure the Council responds to 94.5% of complaints within target or extension agreed timescale which is better than last year where the comparative figure was 92%.

7.2 From Appendix 1 the issues customers complained about are generally the same as other years with Housing, Domestic Waste, and Building Services in receipt of the bulk (>50%) of the complaints raised with the Council.

7.3 Opportunities remain pending for future improvements, these stemming from the further development of a refreshed approach in using our unacceptable actions policy, and delivery of an appropriate Power BI dashboard.

List of Appendices

1. Appendix 1 Summary of main complaint categories and examples of complaints, complaint outcomes, and compliments received.
2. Summary of SPSO cases and decisions made in reporting period.

Background Papers

SPSO revised model complaint handling procedure – Link

Report Contacts

Diarmuid Cotter, Head of Customer & Online Services

Email Diarmuid.cotter@fife.gov.uk

Dave Thomson, Customer Experience Lead Officer / SPSO Liaison Officer

Email: david.thomson-crm@fife.gov.uk

Appendix 1: Complaints and compliments (from Services / departments collectively in receipt of >90% of Fife Council complaints)

Service	Summary data	Complaint & compliment examples, including details of any learning (all from upheld complaints)
Building Services	**Received: 9%** of FC complaints **Main categories:** Poor communications - poor regarding work being/to be undertaken (24%)	**Complaint example:** In recent weeks and months at least twice have had to get someone to look at shower. Both times tradesman has said it needs new doors and edging to stop it going like this. He took pictures of sizing and said these were ordered, have heard nothing again. Still water leaking every time I use it and it looks ghastly. **Outcome:** Complaint upheld. Plumber attended the address and met with the tenant, and she is happy for the complaint to be closed. We have assured the tenant the doors will be ordered, and we will return to fit them as soon as they arrive in the stores from the supplier. **Compliment:** We had a new banister fitted today. The two young boys who fitted it were lovely. Made certain they cleaned up after themselves. I know it caused a few challenges as it's not a straightforward banister. Very kind and cautious.
Catering & Facilities	**Received: 2%** of FC complaints **Main categories:** Toilet access problems (28%)	**Complaint example:** Kirkcaldy esplanade public toilet was locked on Saturday. I use this every day on my walk. Why was it not open? The ladies & gents would not accept money or radar fob - very poor. **Outcome:** Complaint upheld. Procedure put in place so contact details are available to enable toilets to be opened. Notice boards and signage also to be put up. **Compliment:** Mary wanted to let the meals on wheels service know that she really enjoys the driver's company, she appreciates that no matter the weather or what might be going on at the time, they're always cheerful and pleasant to talk to. She's very grateful for what they do and appreciates the service.
Children & Families	**Received: 3%** of FC complaints **Main categories:** Poor communications including lack of	**Complaint example:** Since my case with SWD was transferred from one Social Worker to the other before Christmas, I have tried to contact my new SW without success. I was supposed to catch up with her every fortnight, but this has not happened. I have tried contacting her and other Social Workers, but no one is returning my calls. I have problems to deal with and feel that the support I am supposed to receive is not happening.

Service	Summary data	Complaint & compliment examples, including details of any learning (all from upheld complaints)
	notice, consultation & engagement (32%)	**Outcome:** Complaint upheld. Apology given to complainer for feeling let down by the service – full explanation given regarding Social Work involvement with the case and agreed what communication methods would be helpful moving forward with Social Worker. **Compliment:** I would like to thank Social Work's Community Payback team for their excellent service in restoring Freuchie Den. Over the years the paths had narrowed as silt from the fields and vegetation took over. Last year the paths were covered in nettles which made this popular walk impassable. The project coordinator and 2 supervisors we dealt with were all excellent. They responded promptly and kept the everyone informed of progress. The supervisors also had great problem-solving skills and I was impressed with how they treated their clients and got the best out of them. All the men involved in the project worked tremendously hard and the whole village appreciates their work.
Contact Centre	**Received: 2**% of FC complaints **Main categories:** Inappropriate staff attitude / behaviour (26%)	**Complaint example:** I have made a call today on date time which lasted time. I felt I was polite; however, the advisor came across as very rude and intimidating. I am unsure what prompted this and feel this could have been dealt with in a more compassionate way. Although what she has said, may have been factually correct, I still feel there was no need to be rude and that the only reason she relented was when I was "extra nice" to her, which I am unsure why if I am in fact the customer asking for help. Please can this call be listened to, and feedback provided. **Outcome:** Complaint upheld. Apology offered to customer. Spoken to the advisor regarding attitude. **Compliment:** I would like to compliment the staff they are efficient helpful and friendly. I look forward to continuing my relationship with Fife Council
Domestic Waste	**Received: 12**% of FC complaints **Main categories:** Failure to collect / empty bin (24%)	**Complaint example:** I am being forced to do this online as none if the options on the Fife Council phone line are for bin collections. My issue is that our brown bin for food waste has not been collected for weeks now. I have always left it out on the correct evening before collection according to the fife bin calendar, but it is not collected the day after. This has been ongoing for at least 4-5 weeks. I filled in a missed bin report as well last Monday and left the bin out for 5 full days per your instructions. Nothing has happened and no contact has been made with me. This is becoming a serious problem now and I have no idea how to resolve it. I need to get some assurance that the bin will be collected and an explanation why it hasn't. **Outcome:** Complaint upheld: Crew spoken with and were returned to service the bin.

Service	Summary data	Complaint & compliment examples, including details of any learning (all from upheld complaints)
		Compliment: Would like to thank the bin men for coming back to empty by blue bin which was missed last Thursday. Not only did they empty the bin but even put it back in the garden.
Education	**Received: 10**% of FC complaints **Main categories:** Poor communications including lack of notice consultation engagement (23%)	**Complaint:** I am writing this email with disappointment amd a feeling of being let down. After months of stress and heartache my daughter who has been suffering with a *medical condition.* She has been seeing a private therapist weekly who has diagnosed *medical condition* and we were at the GP last week who has put the wheels in motion to get an official diagnosis and a treatment plan in progress. This has been a very hard few months not just for my daughter but also myself. I have been so very disappointed in *school name* response to this. My daughter's attendance this year has been poor due to her *medical condition*. I had a personal meeting with her guidance teacher a month ago who was more interested in telling me how my daughter's attendance was 85% and she will not progress to get the grades she needs if it carries on. I emailed the Head teacher and Deputy head 3 weeks ago to tell them everything that has been going on with my daughter and I have had no response not even an acknowledgement after 3 weeks. I called last week to check they and received the email and was told it had been received and forwarded onto the relevant parties. Following the GP's advice to request a special timetable for my daughter I emailed her guidance teacher on Thursday to ask if it was possible hopefully not long term but just until my daughter has coping strategies put in place and again no response. I would love to hear your feedback on this and whether you think this is acceptable. **Outcome:** Complaint upheld: Process change around transfer of emails that refer to pupils and meetings and plans in place to support the pupil concerned. **Compliment:** Compliment received for Burntisland PS. I just wanted to express my huge thanks to the whole BPS team for the incredible send-off that you have given the children this week. It really has been amazing and such a special time they will all remember forever. I'm also so grateful for the

Service	Summary data	Complaint & compliment examples, including details of any learning (all from upheld complaints)
		wonderful years of teaching and support you have all given them. I'm so glad my daughter has been part of the BPS family and always feel that the idea of it being a 'family' is so accurate in the ethos and atmosphere at the school. We are so thankful for the care and dedication of all the staff over the years.
Financial Wellbeing & Revenues	**Received: 5% of FC complaints** **Main categories:** Admin error (20%)	**Complaint:** I would like to make an official complaint against the council tax department, I called them up to ask to change my payment date from the date of the month to the date, which wasn't a problem and was changed with what I thought was without any issues. I then received a letter stating that my payment date was changed and that I would also be paying less (number instead of number). I queried this by phone call to be told that it wasn't a problem and not to worry about it. Then after a week I was sent out a Council Tax 1st overdue notice (which as you know is very scary with threats of Bank Arrestment, Benefit deduction, Earnings arrestment, inhibition and Sequestration) I found this absolutely disgusting considering I had already phoned to query the payment. I called the council again to be told that she wasn't sure what had happened then suddenly realised that the person doing the changeover of dates hadn't re set or cashed something (when I queried this I was told it was there system and I wouldn't understand) I then was told that my payments would go up to number to cover the difference off the number payment instead of number, I asked if I could pay the difference and was told no that's not possible. Once I came off the phone a few days later I called back to complain about the fact that I couldn't pay the difference (by calling the complaints department) who then put me through to the council tax department again and the same women as previous. She then said to me that she hadn't heard me ask that, which I know is not true and that yes, I can pay the difference now. All of this has put me under a great deal of stress, and I would like a formal written apology, for being blamed for something that I had brought to your attention that the council tax department had done wrong! **Outcome:** Complaint upheld. Have spent time going over the error with my team member and explaining the impact it has had on our customer. Apology provided to complainer. **Compliment:** Thank you very much for your very welcome, positive response to my enquiry this afternoon. You clearly demonstrated a will to listen and empathy regarding our plight and all implications and impact.
Housing	**Received: 31**% of FC complaints **Main categories:**	**Complaint example:** After multiple attempts by my rent officer name to contact my housing officer on my behalf to report a number of issues with my property, including mould on walls & windows access to my front door because of overgrown bushes and trees also the gutters don't hold the water causing a downpour of water above my front door, there is access blocked to my back garden due to

Service	Summary data	Complaint & compliment examples, including details of any learning (all from upheld complaints)
	Unsatisfactory response to previous complaint / request for service / enquiry / reported fault (14%)	neighbour fence collapsing plus overgrown trees pushing my fence down making play a danger for my kids, the access to my front path has caused my son to fall and break his foot on overgrown brambles, I am disabled with mobility problems and my wife suffers chronic bronchitis which causes bad chest infections complicated by mould this is the second council property we have been put up in that is riddled with mould this has made my wife's condition worse, I think it is an utter insult charging full rent considering the issues with the property and the fact that after multiple attempts to make contact by my rent officer is being ignored it is insulting, I am feeling totally fobbed off and I am ready to seek legal help and name and shame this housing officer that has been ignoring us in the local press this may prompt contact, thank you. **Outcome:** Complaint upheld. Have spoken to the HMO involved and advised that they need to return calls to tenants that are trying to make contact regarding their tenancy. This will hopefully, prevent the issues escalating into a complaint. The HMO has advised that they visited the tenant today and is reporting all the repairs identified and also requested that the tenant move furniture in a room to allow access to test the walls for condensation/dampness on their return visit next week. **Compliment:** Very happy with the allocation of new property and would like to pass on thanks to allocation officer Bruce Combes who has assisted in moving them to a nice flat and a nice neighbourhood. Tenant is very happy.
Grounds Maintenance	**Received: 4%** of FC complaints **Main categories:** Grass Cutting (32%)	**Complaint example:** We live in houses that are 4 in a block. The upstairs house from us is address, which is a scatter flat. The council have just been round to cut the grass off this flat and left the garden in a mess with uncut and loose grass everywhere. The loose grass is all over the shared path. I sincerely hope someone will be round to tidy up the mess and complete half a job. I am very upset that my shared path is left in such a state. I have allergies in the summer and the mess this has been left in is terrible. The guttering is needing cleaned as well. **Outcome:** Complaint upheld. Chargehand spoken with customer and team organised to return. **Compliment:** Outside my salon next to the bus stop is a bin that Craig Cooper empties on the daily. I just wanted to bring to your attention how hard working he is, he sweeps / de weeds the whole area, he is so thorough. He tidies up the roadside / kerbs. A good few people have commented on the

Service	Summary data	Complaint & compliment examples, including details of any learning (all from upheld complaints)
		difference he's made to the area. In these times when everything is so negative and doom and gloom, I thought it important to recognise a hard worker and offer praise when it's due.
Planning	**Received: 3%** of FC complaints **Main categories:** Dissatisfaction with policy / delivery arrangements (49%)	**Complaint example:** Fife Council employee, an Enforcement Officer part of the Development Management and Planning team has wrongfully discarded my Building and Development Complaint planning reference. Our neighbour has put up a football net which raises approximately 6.5 feet above our shared fence. Although it may appear to be temporary in nature it has been in place since *date*. The neighbours keep the net erected even when kids are not playing football in their garden. Not only it is not pleasant to look at and our neighbours never discussed putting the net in place with us but also it is unreliably secured with gym weights and sometimes it leans against our shared fence. We are worried that the net will be blown away by a bigger storm and it will damage our and the neighbouring properties. Fife Council employee is advising that he does not consider a "football net" to be a form of enclosure even though its purpose is to enclose "football balls" and prevent them from flying between our two neighbouring gardens. The net's sole purpose is the definition of the verb "enclose" in the dictionary. It feels like Fife Council employee is completely ignoring his common sense in this situation and I would like my claim reopened and further investigated. **Outcome:** Complaint upheld. To consider again whether the proposal could constitute development. **Compliment:** Thank you very much for letting me know, this is excellent news. Thank you also for your assistance throughout the application and for presenting the case today to Members. The communication has been first class and it's been a pleasure working with you on this application.
Recycling Centres	**Received: 2%** of FC complaints **Main categories:** Dissatisfaction with policy / current organisational	**Complaint example:** Attended at the recycling centre in Glenrothes to deposit material in the soil and rubble skip. I had been earlier to do the same thing without any issue. On the second trip, there was a sign on the skip Do not use- contact staff The explanation I got was that the skip was already full and to come back at another time. All the member of staff could say was it would be emptied sometime today. With no telephone contact available for the site, how are the public to know when a service is again available without making potentially wasted trips to the centre? I find the situation today unacceptable. On another day there were two skips for soil & rubble, today only one. I needed to

Service	Summary data	Complaint & compliment examples, including details of any learning (all from upheld complaints)
	arrangements including opening times (46%)	dispose of material as I was in the middle of a project in my garden, which now has to stall. There should be some way of ensuring that when one skip is nearing its limit, another is in place to provide continuity. More than a little annoying when paying £300 a month in council tax! **Outcome:** Complaint upheld. There had been a servicing issue with the other skip and repair and return of the alternative was expedited. **Compliment:** My route takes me past the Council tip. For many years this wasn't a pleasant drive as the tip was smelly and the road was dirty. However, I have noticed a huge improvement in recent weeks. The smell has disappeared (even in the current hot weather) and the road is much cleaner.
Roads & Transportation	**Received: 12%** of FC complaints **Main categories:** Potholes / poor condition of road surface (12%)	**Complaint:** My complaint refers to a lack of action on an Online Road Fault. An update on this fault was received. The update stated that the defect had been assessed and deemed to present high risk. As such it would be repaired within 5 working days, but if this was not possible, it would be made safe until a permanent repair could be carried out. It is now 28 working days since the update was received. The defect has not been repaired, nor has it been made safe. The recent amount of heavy rainfall has significantly worsened the fault and it is now presenting a risk of damaging vehicle tyres and wheels, as well as presenting an unacceptable risk to any vehicle attempting to pull out into the main road. The extent of the defect, given the lack of timely repair, is now considered to be dangerous. **Outcome:** Complaint upheld. Incorrect timescale had been provided regarding repair and therefore staff alerted to this and works scheduled for making area safe. **Compliment:** I would like to thank you for the great service you run and also the kind drivers you have. I much appreciate the lifts I get for doctors and respite appointments as my mobility is not very good these days and I am on my own now. Thank you so much.

Appendix 2 – Summary of SPSO Decisions

A2.1 The final stage for complainants is the Scottish Public Services Ombudsman (SPSO) and the following tables present the cases from this office opened in 2023-24.

Service	Vol	%	Decisions
Housing	15	33	87% Withdrawn 13% Pending
Planning	10	22	90% Withdrawn 10% Not upheld
Education	9	20	100% Withdrawn
Roads Transportation	5	11	100% Withdrawn
Children & Families	3	7%	100% Withdrawn
Customer Service	1	2%	100% Withdrawn
Financial Wellbeing and Revenues	1	2%	100% Withdrawn
Building Services	1	2%	100% Withdrawn
Env Ops	1	2%	100% Withdrawn

A2.2 Withdrawn typically means that the SPSO decision was that these complaints were either, out of their jurisdiction, the complainants' outcome is unachievable or that in the opinion of the SPSO they can add nothing further to the decision already reached. The SPSO remain obliged to alert the Council of these cases under their governing Act. Pending means that the case remains under consideration by the SPSO at the time of this report.

A2.3 The overwhelming decision to not take cases forward for investigation may suggest that resolutions provided are the correct ones.

A2.4 Additionally the SPSO made decisions on cases opened in previous years. These decisions were received in 2023-24. Details of these upheld decisions are in the following table, and all are available from the SPSO website.

Case Ref	Subject	Outcome
202008929	Rights of way and public footpaths	Some upheld, recommendations
202008175	Playpark development	Not upheld, no recommendations
202107139	Neighbour disputes and anti-social behaviour	Not upheld, no recommendations

Case Ref	Subject	Outcome
202102318	Primary School pupil behaviour	Upheld, recommendations

A2.5 Case 202008929

Summary

C complained to the council about a local access route that was closed off by the landowner. C said that the route had historically been asserted as a right of way (RoW) and a planning condition imposed to protect it. In response, the council declined to take action to re-open the route. They explained that, notwithstanding the route being referred to a RoW in the planning process, the route had not been asserted and had no legal status. They explained that the planning condition (to provide an upgraded alternative route through the site) had also been removed on appeal. However, in a further response, the council stated that the condition remained valid but was found to be ultra vires and unenforceable as the alternative route was not in the landowner's ownership. They declined to take any further action on the basis a suitable alternative route, in their ownership, had been provided and remained open.

C complained that the council had failed to take reasonable action to keep open the claimed RoW. C said that the council had been very clear in the planning process that the claimed route had been established as a RoW, and Scotways had also considered the route had met the criteria to be a RoW. They said that the council had also failed to take reasonable enforcement action in respect of the planning condition and had provided contradictory responses to their complaints about these matters.

We took independent advice from a planning adviser. We found that the council had provided a reasonable explanation regarding the status of the route but highlighted that it would be for the courts to determine the status of a disputed RoW if C disagreed with the council's position. We also found that the decision not to take any further action to keep the claimed route open was a discretionary matter which the council were entitled to take. For these reasons, we did not uphold this aspect of C's complaint.

However, we provided feedback to the council in respect of the original planning application. Specifically, we noted that the council had appeared to determine the application as including the diversion of a claimed RoW without confirming the status of that route. We reminded the council that, when dealing with planning applications which make reference to a RoW, to firstly confirm the actual status of such route and where required, to amend the application description if it is deemed that the route is not a RoW prior to making any determination.

Notwithstanding the unenforceability of the planning condition itself, we found that there had not been any failure by the council in respect of enforcement matters. We found that the council's position that the planning condition had now been complied

with as a suitable alternative route through the site had been provided, to be acceptable. For these reasons, we did not uphold this aspect of C's complaint.

We also found that the council failed to provide a clear and consist explanation in their response to C's complaints and had incorrectly applied terminology and/or language. We upheld this aspect of C's complaint. We also reminded the council to ensure that where responses cannot be provided within the timescales set out in their Complaint Handling Procedure, they should write to a complainant to explain the reasons for the delay and provide a revised timescale for response, and that where they are unable to respond to a request for information from our office within the timescale specified, they should contact us as soon as possible and without delay.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for the failings identified. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spso.org.uk/information-leaflets.

In relation to complaints handling, we recommended:

- Ensure that all relevant staff are reminded of the need to use the correct terminology when referring to matters in which the terminology has a particular meaning.

A2.6 Case 202008175

Summary

C complained that the council failed to obtain planning permission for the extension of a playpark. C said the development of the expanded playpark area required planning permission as it was a material change and was also a bad neighbour development.

We found that the council did not misinterpret law or policy and had proper regard for material considerations. Their decision not to take enforcement action in relation to a slide that required planning permission was also legitimate and took account of material considerations. Therefore, we did not uphold C's complaint.

However, we considered that it would have been helpful if the council's planning services had been involved at an earlier stage in the process and not only at the point that residents started raising concerns. This may have helped to identify issues in relation to the height of the slide at an earlier stage. We provided feedback to the council about this.

A2.7 Case 202107139

Summary

C complained on behalf of their parent (A) about the council's investigation of incidents of anti-social behaviour from A's neighbour. C said the council failed to carry out a reasonable investigation which had an adverse effect on A's mental and physical health.

The council's initial response was very brief and simply stated that they had looked over the case notes and spoken with the staff involved. The council did not uphold C's complaint and C brought their complaint to this office. We sent the complaint back to the council and asked them to provide a more full response. The council's second response was more detailed, gave a chronology of events and summarised the action they took each time C, A (or their neighbour) reported an incident. However, it still only gave brief details of the actions taken by the council after each report and failed to evidence that this was in line with their anti-social behaviour policies.

After further enquiries the council provided evidence of the policy and procedure they followed. We found that there were a series of administrative errors on the part of the council and that council records contained inappropriate speculation about A's health and its possible impact on their complaint. Although these administrative failings undermined C's confidence in the council's actions, we found that the council did respond to the complaints of anti-social behaviour in line with their own procedures. Therefore, we did not uphold C's complaint but provided the council with feedback.

A2.8 Case 202102318

Summary

C complained about Fife council's handling of a complaint that they made regarding an incident involving their child (A) at their school.

C said that A was a victim of sexual assault and harassment during a playground game in which another child forced A to kiss them, touched A inappropriately and encouraged other children to chase and catch A. C said that, as a result of this, A felt unsafe and was unable to return to the school.

C complained that the council's staff failed to carry out a reasonable investigation, including that A's teacher's account of events was accepted without any further scrutiny.

We found that the council's initial investigation of concerns raised verbally by C was reasonable and highlighted the school staff's conclusion at that time that this had been a matter that could be dealt with in the classroom. When new information became available indicating that the events may have been more serious, the council left the investigation to the police. Following completion of the police's investigation, the council issued their response to the complaint, which reflected the situation as they understood it.

However, C's complaint clearly included mention of their concern that a few weeks before the specific incident complained of they had reported to the teacher that a similar incident had occurred. Due to the lack of records available of the council's investigation it is unclear whether, or to what extent, that these concerns were taken

into account or investigated. These concerns were not responded to by the council. It is unclear, therefore, whether the council reasonably considered the implications of the teacher having been aware of potentially inappropriate behaviour taking place among the children for a few weeks before the reports that led to action being taken. These implications may have included what weight the school and council gave to the teacher's statements, whether evidence or corroboration should have been sought for when the teacher or other staff first became aware of the children's actions in the playground, and whether the outcome of the investigations would have been the same. Therefore, we upheld the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for their failure to investigate and respond to C's concern that they had reported to the teacher. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spso.org.uk/information-leaflets.

In relation to complaints handling, we recommended:

- Complaints are properly investigated and responded to in line with the Model Complaints Handling Procedure for Local Authorities.

A2.9 For clarity all recommendations were met as suggested by the SPSO in these decisions.

22 August 2024

Agenda Item No. 5

Information Requests Annual Report 2023-24

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 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

none

1.0 Glossary

The following abbreviations are used throughout this report:

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

SI: Supporting Information Requests

CDP: Child Disability Payments
ADP: Adult Disability Payments

2.0 Background

2.1 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. To assist in understanding the following performance information, please find an explanation of the various types of requests received and managed by IMRT.

- FOI - Freedom of Information (Scotland) Act 2002 – all requests for information received by Fife Council fall in scope of FOI.

- EIR - Environmental Information (Scotland) Regulations 2004 – requests for information that is held relating to the environment, such as building, roads, health etc

- (SAR) General Data Protection Regulations 2018 – Subject Access Requests – Data subject requests personal information about themselves.

- Other – There are various requests received under this heading:

    - Pupils' Educational Records (Scotland) Regulations 2003 – information parents/carers can request in relation to their child's Education.

    - Child Disability Payments (CDP) – Requests received from Social Security Scotland for information to assist parents with claims for their children. (Previously Disability Living Allowance)

    - Adult Disability Payments (ADP) – Requests received from Social Security Scotland for information to assist adults applying for disability

allowance (Previously PIP)

- Data Protection Act 2018 exemptions –
  - S2 – Crime & Taxation – In the main these requests are received from Police Scotland but can be made by authorities investigating fraud.
  - S5 – Information required to be disclosed by law etc or in connection with legal proceedings – These requests are received from other authorities who have legislative power to access personal information an example would be court orders.

3.0 Developments/Updates – 2023/24

3.1 FOI Reform

Two consultations have been conducted: one by the Scottish Government and the other by Katy Clark MSP.

The Scottish Government has confirmed that, following their consultation, there are no current plans to introduce primary legislation to amend the FOI law. They have however announced updates through secondary legislation, including the power to designate new bodies under the FOI Act and revise the Section 60 code of practice. This review will address new technologies such as WhatsApp etc.

Katy Clark confirmed that her Private Members Bill will be moving forward. The Bill has now passed the proposal stage, and the right to introduce the Members' Bill has now been secured. The Bill includes:

- extended coverage to all bodies delivering public services and services of a public nature.
- increase accountability and transparency including through the proactive publication of information.
- strengthen the effectiveness of the existing processes; and improve enforcement.

3.2 IMRT Improvements

During the past two years, IMRT has changed in members and structure. Work has been undertaken to:

- improve processes.
- provide training to team members and all council officers.
- improve performance.

Training options available to all staff include:

- face to face sessions, which aims to increase knowledge of information owners; and
- an e-learning module which ensures all staff members are aware of their

individual responsibilities under both FOI and Data Protection, particularly regarding accessing information and the rights of individuals to access their own data.

3.3 Governance Reporting

IMRT continue to report to the Information Governance Board quarterly. The Board is Chaired by the Executive Director of Finance and Corporate Services and is attended by Senior contacts from all Services.

The report highlights the status on performance for both FOI and SAR requests and raises any actions required to be carried out by services to ensure compliance with the related legislation.

3.4 SAR Portal

Efforts have been made to identify a system that facilitates customer response access and provides tools to help IMRT manage the substantial data involved in processing these requests. Progress has been slow due to work pressures in other areas, but it is moving forward, and a trial of the identified system will take place soon.

3.5 Information Requests e-learning

E-learning has now been developed and is available for all staff to complete. This training emphasises the legal responsibilities of each staff member and outlines their duties according to the Information Request Policy and Council procedures.

3.6 Elected Member Enquiries Procedure for Fife Council Staff

Appendix 1 is available to all staff on Fife Council's intranet page. This guidance provides a process for handling requests from Councilors and Members of Parliament. It is currently being updated to provide further clarity around when a formal FOI requires to be considered. The update will include examples of distinguishing between BAU and FOI as well as additional guidance on publishing information.

4.0 Information Requests

This section provides the following information:

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

4.1 Overall Requests Received and Performance

4.1.1 6,402 Information Requests were formally logged between 1 April 2023 and 31 March 2024. This total is made up of:

- 1,502 Freedom of Information Requests (FOISA) – 23% of total requests received
- 1,113 Environmental Information Regulations (EIR) – 17% of total requests received
- 742 Subject Access Requests (SAR) – 12% of total requests received
- 3,045 Other requests including S2 and BAU – 48% of total requests received

4.1.2 Figure 1 below highlights the number of requests by type received between 2019/20 and 2023/24.

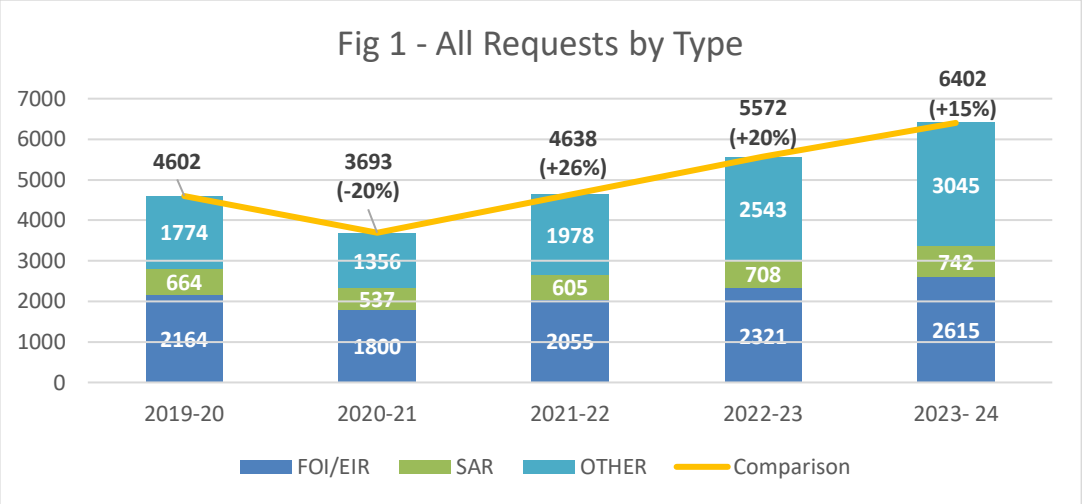


Figure-1 –shows all requests received

4.1.3 Figure 2 below shows the performance of all types of requests received. This shows that performance rose by 1% overall during 2023/24.

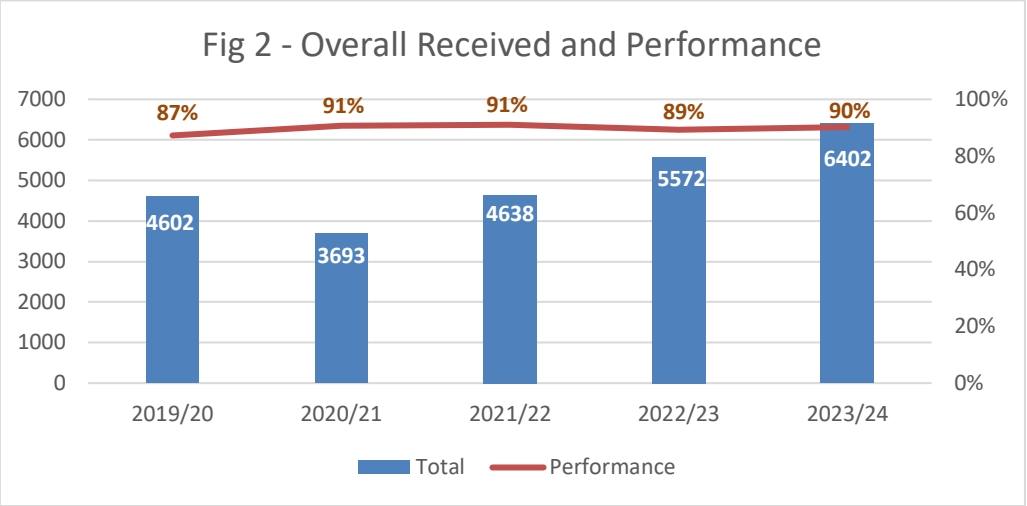
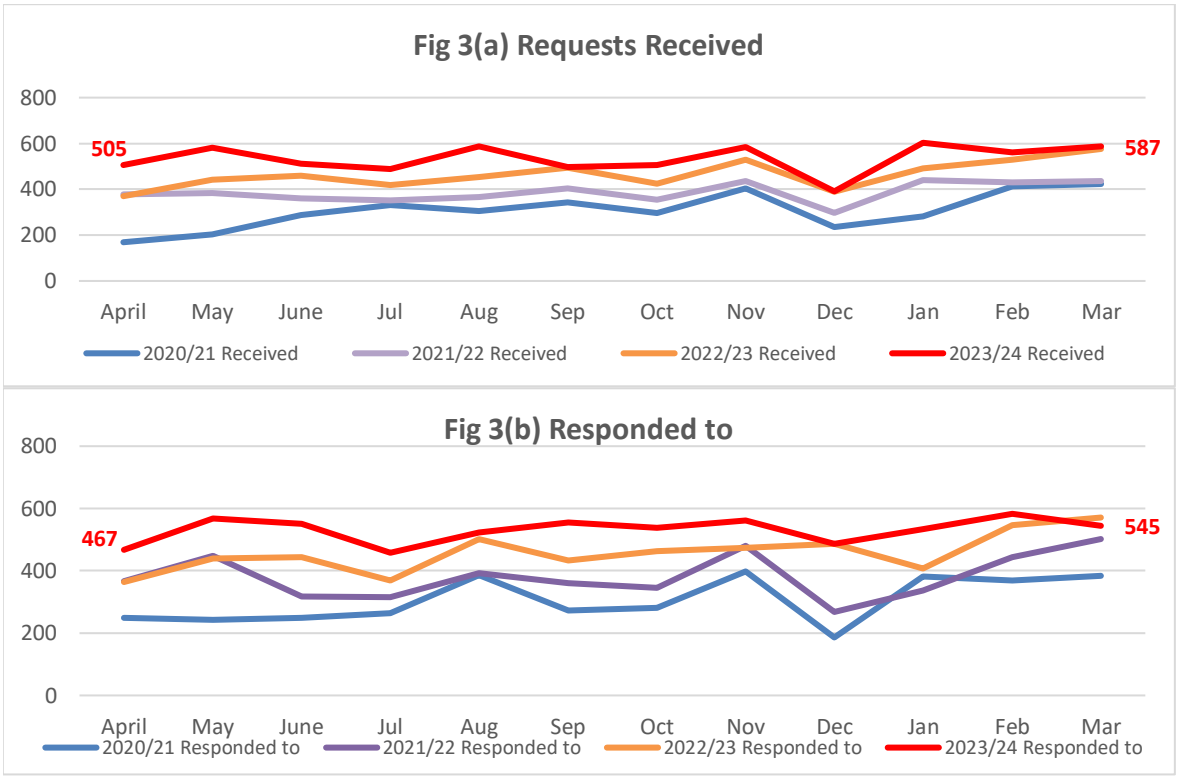


Figure-2 –Overall Performance

4.1.4 The number of requests received monthly can be unpredictable and varied. Figure 3(a) shows the number received over a four year period and 3(b) shows all requests responded to for the same time period.

4.1.5 These graphs show dips over holiday periods, but these are generally preceded by receiving the highest amounts prior to these periods. This can in some instances cause challenges due to staff absences within IMRT and the wider council, especially in December.



Figures 3 a & b – Information Request Received and Responded to Monthly

4.1.6 All requests are individual, and although some requests can be dealt with speedily,

a large number of requests are complex and time consuming. There are various reasons for this, such as the number of questions within each request, the sensitivity of the subject, or the number of services/locations required to be contacted for information.

4.1.7 A review of 2% of FOI's recorded during 2023/24 was undertaken. The outcome found that an average of 4 requests were received within each recorded request. This provides a total of the number received to be 6,008. This shows the number being reported relates to 25% of the number being received.

4.1.8 A review of 2% of EIR's recorded during 2023/24 was also taken. The outcome found that an average of 4 requests were also received within each recorded request. This provides a total number received to be 4,452. The shows the number being reported relates to 25% of the number being received.

4.1.9 Of the more complex SARs which relate to 479, (65%) of the total requests received, 25% were reviewed to identify the number of pages required to be reviewed and redacted by the 4 Specialists dealing with these each day. This shows that on average the officer is required to review and redact **192** pages each day. This does not include other work required per request, such as collating information, communication with services and applicants and providing further support to assistants and services in relation to the other 35% of requests.

4.2 FOI/EIR Requests and Performance

4.2.1 Figure 4 below shows the number of FOISA/EIR requests received during 2019/20 – 2023/24 and the performance of these request types during this time.

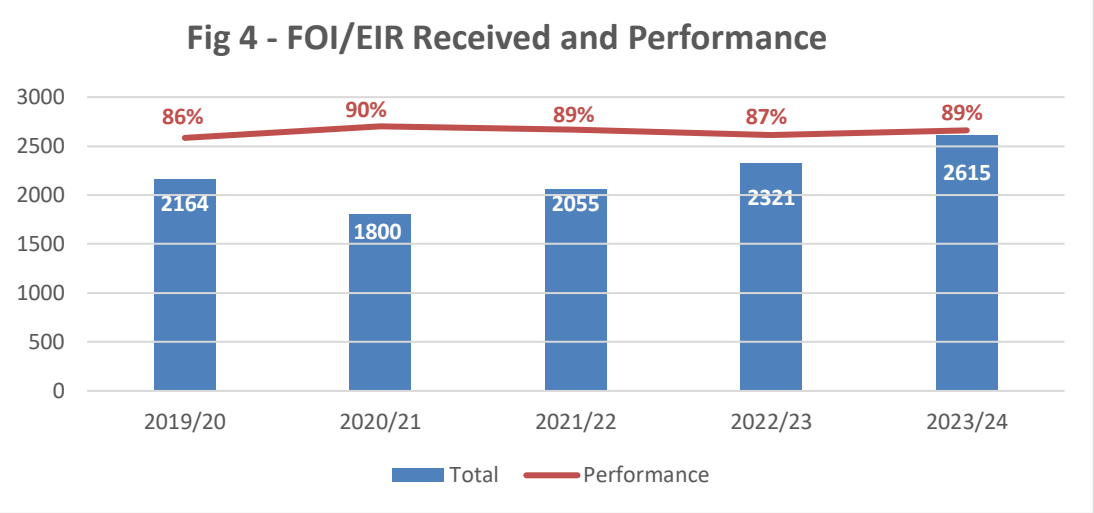


Figure 4 –FOI/EIR received and performance

4.2.2 The above figures show a slight increase in performance by 2% during 2023-24 compared to the previous year. Please also note that over this time FOI&EIR requests increased by **13%.**

4.3 SAR Received and Performance

4.3.1 Below figure 5 shows details for SARs received by the Council and the performance between years 2019-20 to 2023/24.

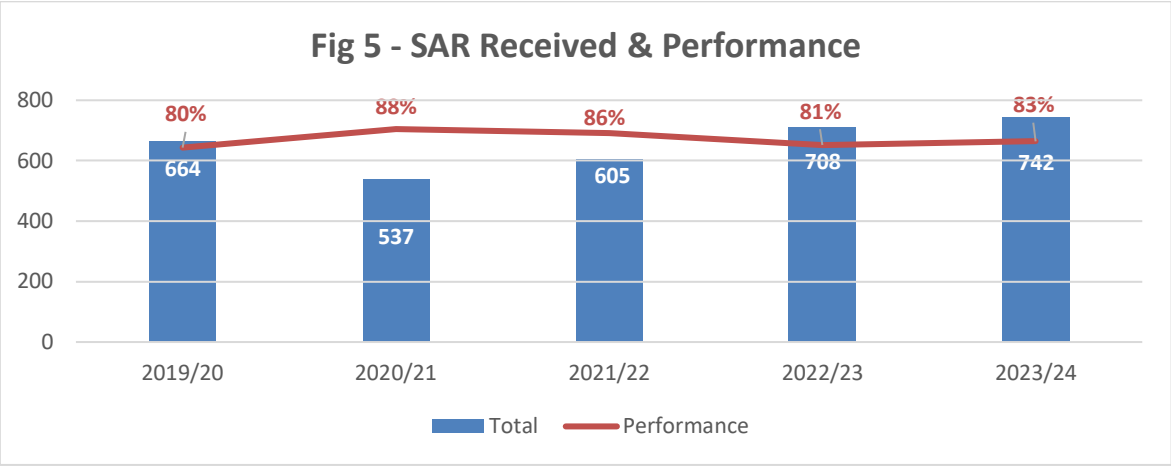


Figure 5 – SAR received and performance

4.3.2 Performance of SARs has increased slightly by 2% during 2023/24. Additionally, the number of requests received rose by **5%** during 2023/24 compared to the previous year.

4.3.3 SARs are particularly time consuming to manage. Improvements in managing these types of requests continues to be reviewed, in particular how to manage the large amount of duplicate data held and transferring completed requests to the Applicants.

4.4 Supporting Information Requests - CDP/ADP

4.4.1 These relate to requests that are received by the council from Social Security Scotland. This data sharing agreement was established to streamline the process of individuals seeking evidence to support their disability payment applications. This process started in 2022/23, there has been a steady increase in the number of Child Disability requests, which has exceeded initial predictions. However, the number of Adult Disability requests has been lower than anticipated. Social Security Scotland is currently working to address this issue.

4.4.2 Fife has taken a positive approach to assist Scottish Government and Social Security Scotland in the implementation of this new process.

4.4.3 Previous performance has been impacted by various factors. For example, a request requiring a response from a teacher might be received while schools are closed. Other factors are mainly due to technical issues beyond the Council's control. Performance for 2023/24 shows CDP at 95% and ADP at 100%.

4.4.4 The information shown below in figure 6, provides a breakdown of the predicted numbers and the actual numbers received. The percentage of the predicted numbers received and the performance of responses.

CDP	Mean Predicted	Received	%	Performance	% of total FC requests
2021/22	40	57	143%	89%	5%
2022/23	130	261	201%	86%	5%
2023/24	150	387	258%	95%	6%

ADP	Mean Predicted	Received	%	Performance	% of total requests
2021/22	0	0			
2022/23	70	14	20%	93%	0.25%
2023/24	180	20	11%	100%	0.31%

Figure 6 – SI requests

4.5 Service Requests & Performance

4.5.1 The number of requests and the percentage of the total number of requests received by the Council is shown below in figure 7. This is broken down by the Service areas available on aspire.

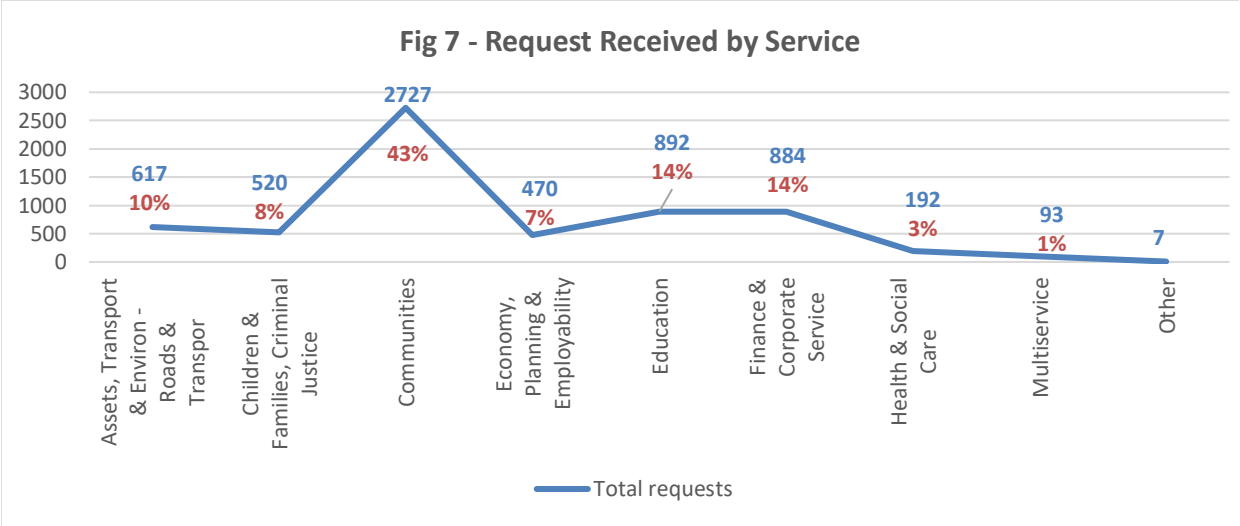


Figure 7 - above shows the requests received by each Service/Directorate

4.5.2 The largest volume of requests shown in figure 7 relate to Community Services. This is due to the large number of S2 requests that are dealt with by the Revenues Assessment Team and Housing Services.

4.5.3 Figure 8 shows the performance of the individual services and the reason for lateness. Lateness is recorded as being caused by IMRT, the Service, or another Service having caused a delay.

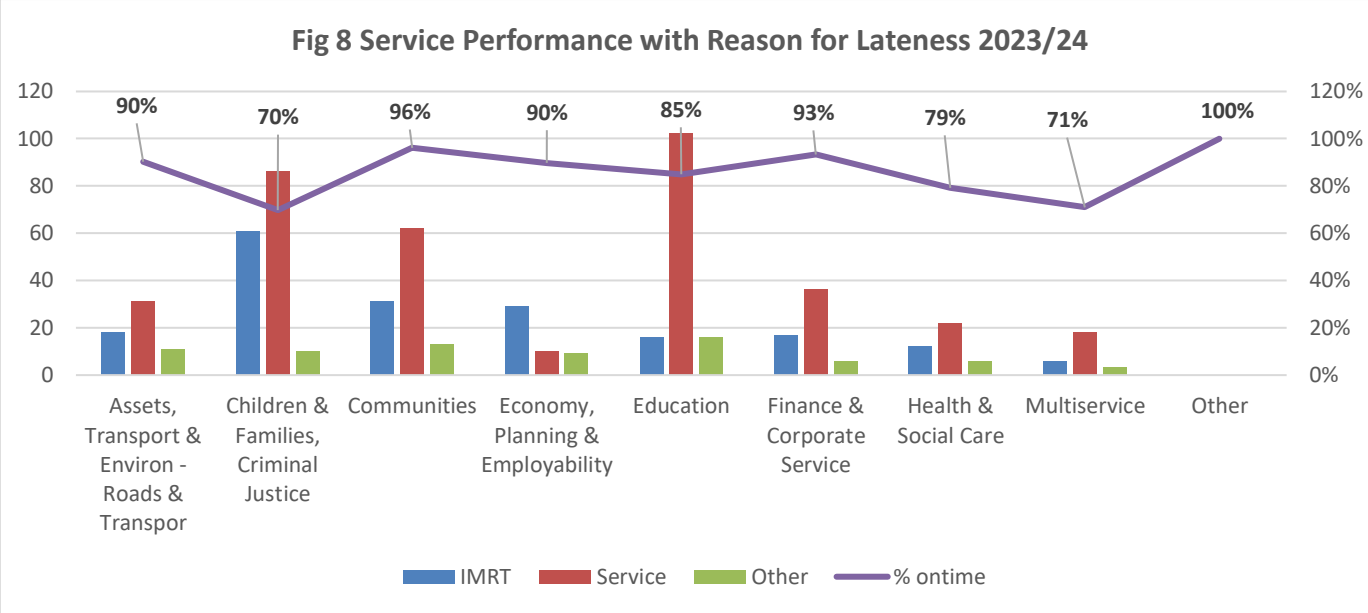


Figure 8 – shows the performance for each Service/Directorate along with the reasons for lateness

4.5.4 Figure 9 presents data on requests that required to be escalated due to lack of response to IMRT within the original timescale provided. This graph shows the number of requests received by the service/directorate and the percentage requiring escalation.

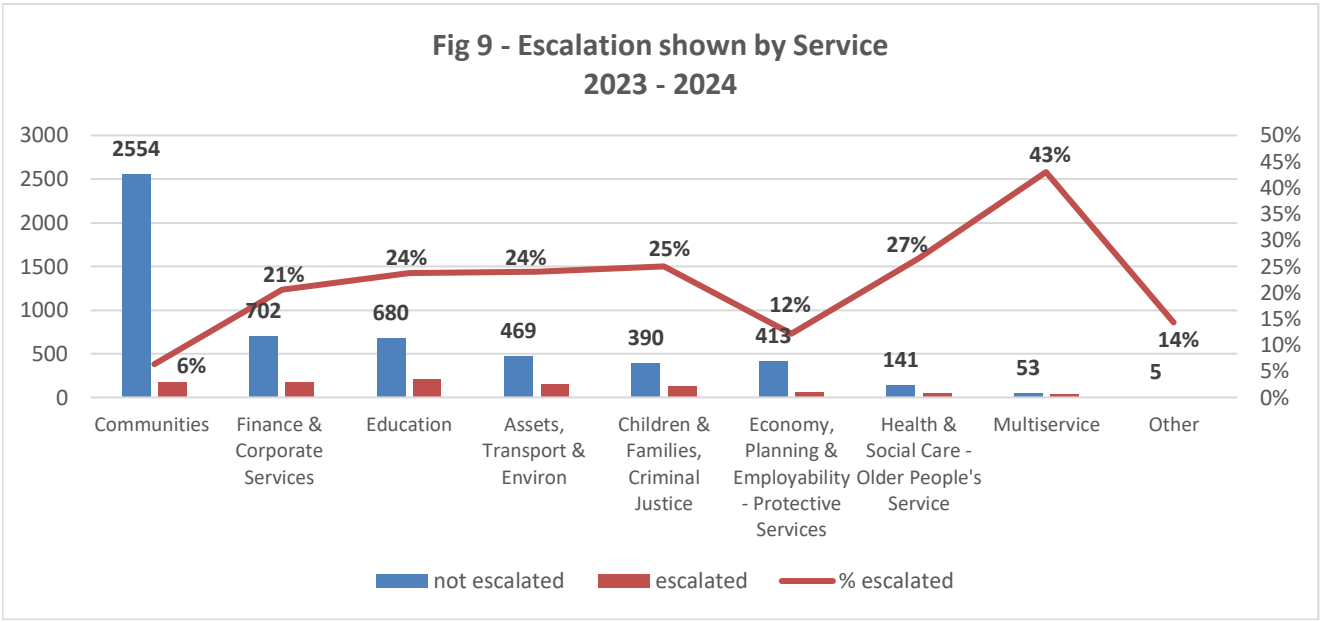


Figure 9 – Number of requests received and % escalated

5.0 Reviews & Applications

5.1 Reviews

5.1.1 If an Applicant is dissatisfied with the response, or if the response has not been

provided within specified timescale, they are entitled to request a review by the Council under Section 20 of FOISA and Article 15 of GDPR (SAR). Reviews are typically 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.

5.1.2 Figure 10 below shows the number of requests received and the percentage that required a review to be carried out over the past 4 years.

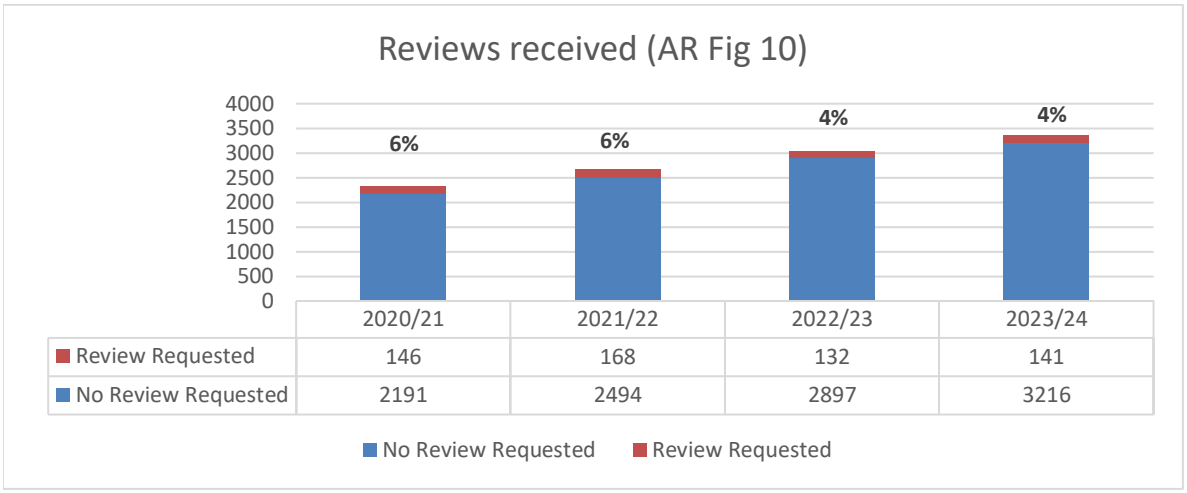


Figure 10 - FC Request for Reviews by Month

5.1.3 Figure 11 below compares the types of reviews received over a four year period. The outcomes are catogorised as follows: “substituted”, indicates that a different decision was reached at review stage; “first decision” relates to reviews triggered by a late response to the initial request; and “confirmed” denotes cases where the review outcome agreed with the initial response.

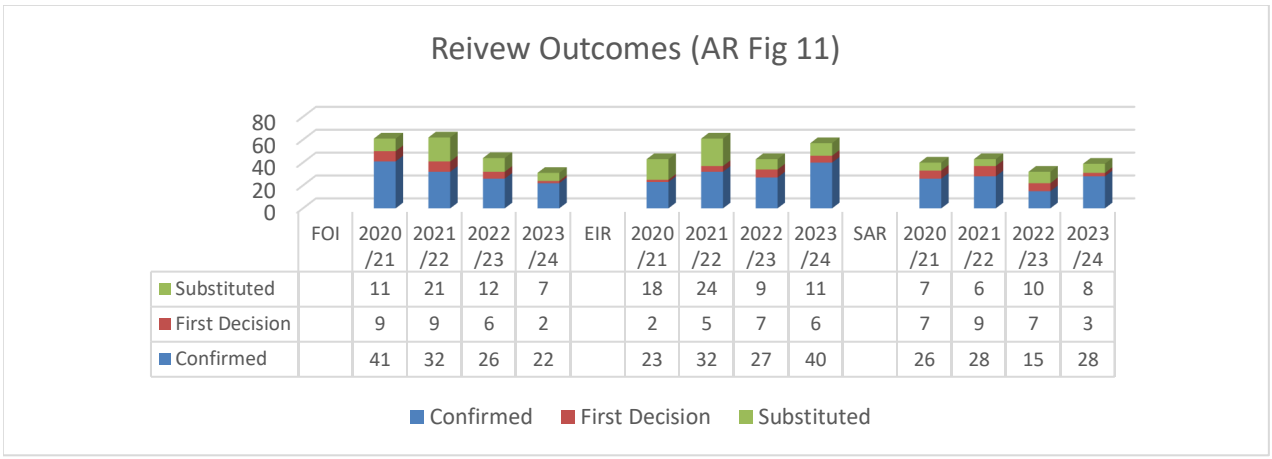


Figure-11 Review Outcomes

5.2 Appeals and Complaints

5.2.1 If an Applicant remains dissatisfied with the Council’s response to their request for review under FOISA/EIR, they can refer their case to OSIC and apply for a decision on how their request was handled and the decisions taken.

5.2.2 If an applicant remains dissatisfied with the result of a SAR review, their complaint falls under the remit of the ICO.

5.2.3 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.

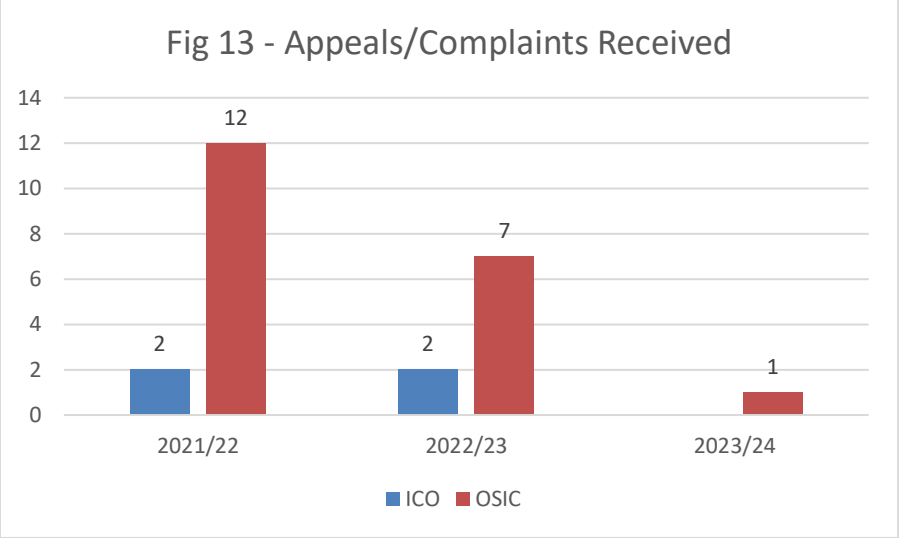


Figure-13 shows number of applications/complaints received

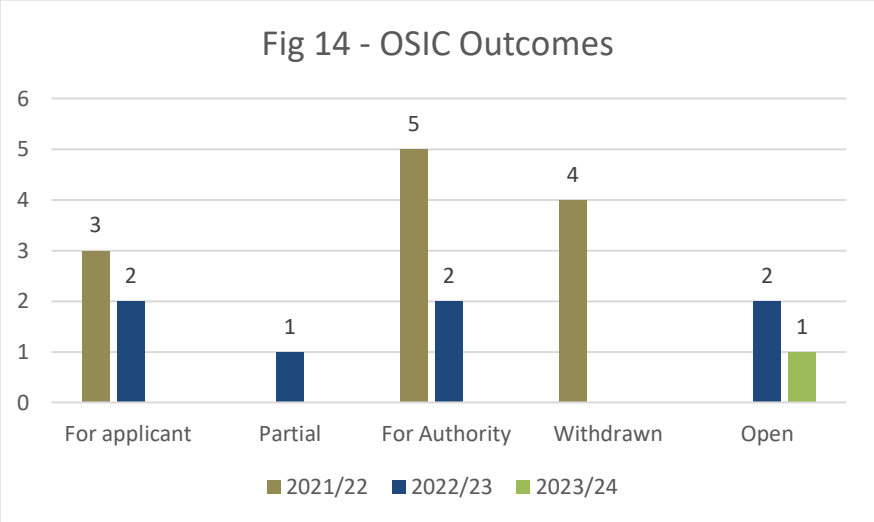


Figure-14 shows outcome of OSIC applications

6.0 Scottish Local Authority comparison 2023/24

6.1 Information was requested from all 32 authorities. 2 did not respond and others could not provide the requested data in the format required for various reasons.

6.2 Some of the larger authorities advised that the SAR information has not been finalised due to timescales. They were requested to include those still within timescale in their final response.

6.3 Figure 15 below shows the number of FOI/EIR requests received and the performance of 24 councils who provided information. The average performance is 88%.

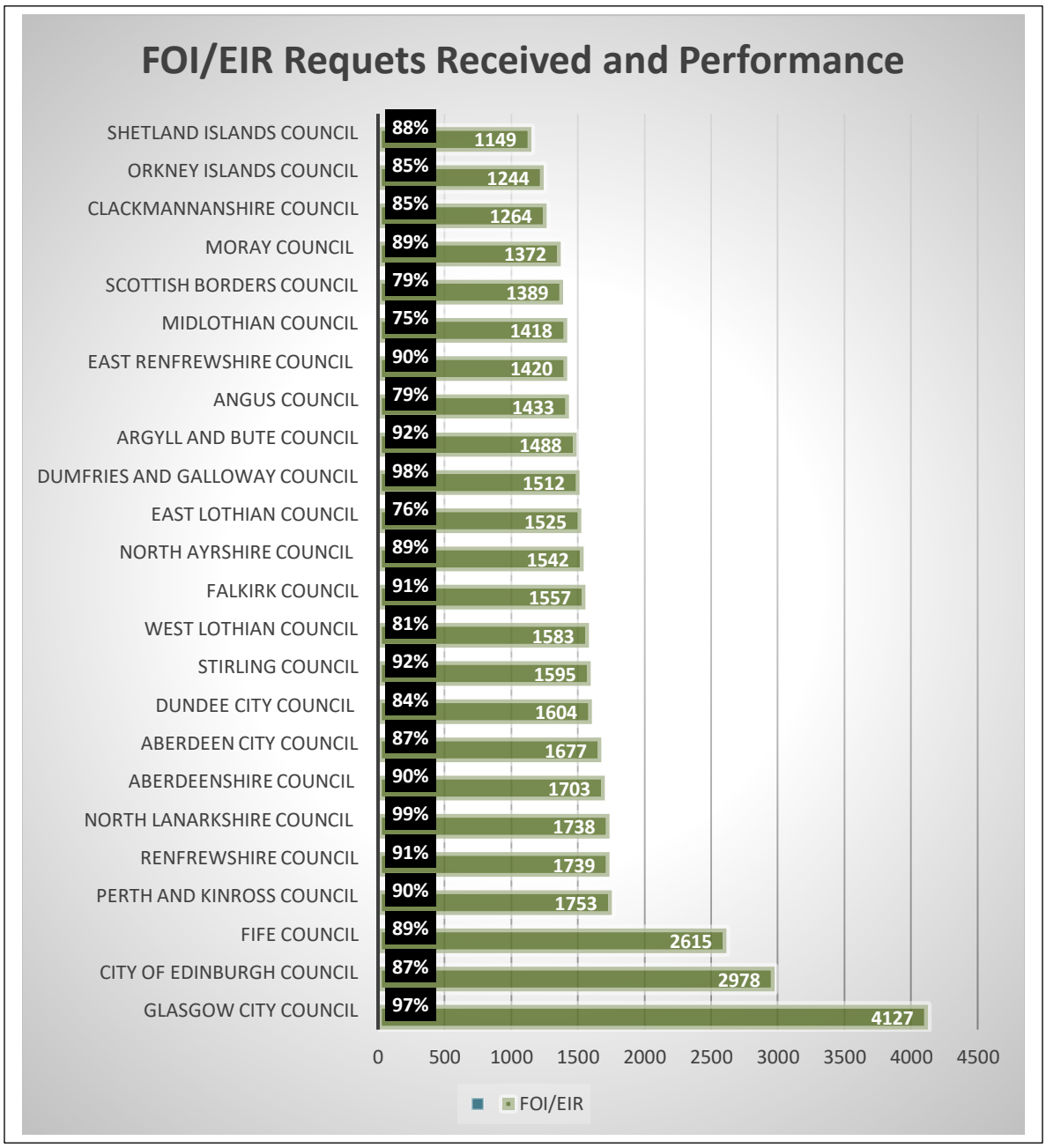


Figure-15 Comparative FOI/EIR requests received and performance with other authorities

6.4 Some authorities reported receiving a large volume of complex SARs. These include requests that are extensive in size and those that may significantly impact the individuals receiving the information. This complexity arises from the nature of the information contained within the files and the additional support provided to applicants when delivering the information. This additional effort has a notable impact on performance.

6.5 Figure 16 below indicates the number of SARs received and the performance of 24 councils that provided information. The average performance is 78%. However, please refer to section 6.2, which notes that some of these figures may still change.

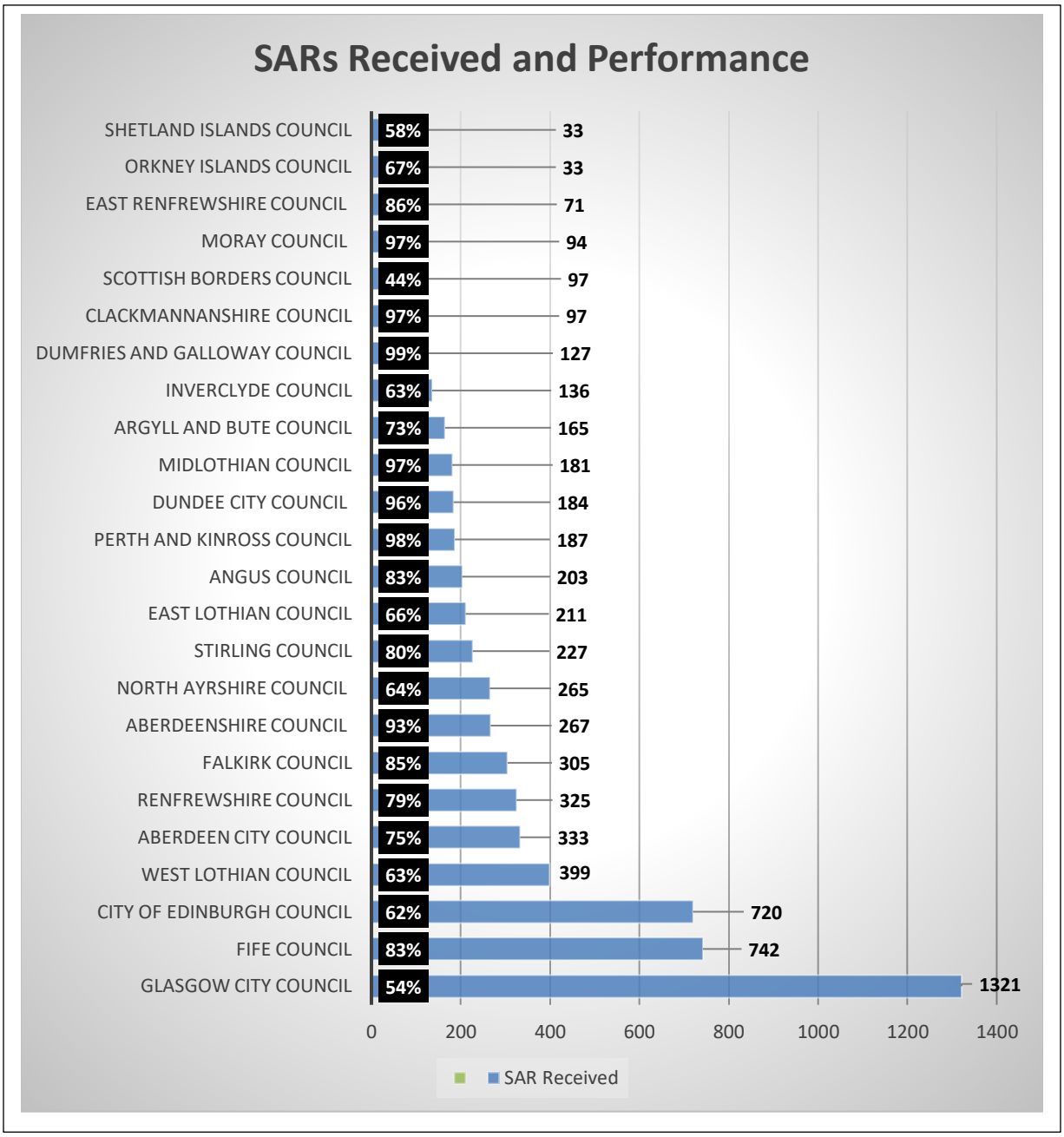


Figure-16 Comparative SAR requests received and performance with other authorities

6.6 Fife continue to receive large numbers of requests and continue to perform above the average performance achieved by local authorities.

7.0 Conclusions

7.1 All types of requests continue to rise. Measures have been undertaken to address this and a restructuring of IMRT and training of IMRT staff has been undertaken.

7.2 Legislative changes to both FOI and SAR are expected to be received in 2024/25.

7.3 Continual work is being carried out within services identified who have a lack of awareness of their employee roles and responsibilities in relation to information requests.

7.4 The CDP/ADP requests continue to progress forward. CDP requests received are above the projected numbers assumed by Social Security Scotland/Scottish Government for funding purposes. However, ADP continues to be low.

7.5 Fife Council performance is above the average performance in councils overall but still falls below the required level. Further work is being undertaken to improve response times.

List of Appendices

1. Appendix 1 Elected Member Enquiries Procedure for Fife Council Staff

Report Contact
Laura McDonald
Information Compliance Manager
Customer and On-Line Services
Email – laura.mcdonald-im@fife.gov.uk

Appendix 1

Elected Member Enquiries Procedure for Fife Council Staff

This is a controlled document. Prior to using this document, IT MUST BE CHECKED against the current revision held by Document Control

Contents **Page**

1. Introduction

This procedure outlines the process for Fife Council employees to follow when they receive an enquiry from an elected member. In the majority of cases, this also applies to enquiries from MPs and MSPs (directly or on their behalf).

Enquiries can be received in writing, in person, by telephone, by email or online (for example through FifeDirect).

2. Background

There are many processes which may be relevant in dealing with an enquiry from an elected member and/or MP/MSP. This procedure aims to set out all these processes and provide guidance for staff on key factors which should be taken into account. Employees should be aware of any relevant timescales that apply and any logging requirements.

This procedure does not apply to complaints from elected member. If you have any queries about the complaints procedure and keeping an elected member informed in these circumstances then please contact the Escalation & Resolution Team: Escalation.Resolution@fife.gov.uk 01592 583593.

3. Types of Enquiry

The different types of enquiry as are follows:

Need to Know Enquiries

Enquiries on behalf of constituents

Business as Usual Requests

FOI/EIR Requests

Subject Access Requests (SAR)

The different type of enquiries, and the process for managing these, are outlined further below. A process map for identifying the relevant procedure is attached at the Appendix.

4. Need to Know Enquiries – applies to Councillors only

4.1 Elected Members have the rights to access information held by the Council where it is necessary to enable the member to properly perform their duties as a councillor. This is known as the "Need to Know" principle. For example, if a councillor is a member of a particular committee then they have the right to inspect documents relating to the business of that committee. If they are not a member of that committee then the councillor would have to show good cause why sight of them is necessary to perform their duties.

4.2 If the Elected Member has accessed the information via the "Need to Know" principle then it is likely that this information is confidential and the elected member is bound by

confidentiality. Therefore, they should not publish or otherwise disclose the information to a third party.

4.3 The decision whether the "Need to Know" principle applies, lies with the Head of Legal and Democratic Services. If you believe that an enquiry from an elected member falls within this category then please contact the Head of Legal and Democratic Services or Committee Services Manager as soon as possible for advice.

5. Enquiries on behalf of constituents

5.1 As part of the enquiry process, elected members and MPs/MSPs/MEPs may request that they are provided with information about their constituent. This can include personal and / or sensitive personal data (now known as special categories of personal data).

5.2 When requesting information, elected members must provide confirmation, either via e-mail (from their councillor e-mail address or MP/MSP/MEP email address) or in paper format that:

- the elected member represents the ward/constituency in which the individual lives (or has a relevant wider remit);
- the elected member makes it clear that they are representing the individual in any request for their personal information;
- the information required is relevant to the subject matter of the enquiry; and
- the information is necessary to respond to the individual's complaint/enquiry.

5.3 Where the enquiry meets the above criteria – there is no requirement for the elected member to provide a completed mandate from the constituent. This was agreed with elected members via the Cross Party Working Group in September 2015. However, where the response will contain medical information, staff may request a mandate signed by the constituent. To align with NHS requirements, Health and Social Care will require a mandate to disclose medical information.

5.4 Where an elected member (including MP/MSP/MEP) makes an enquiry for information about someone other than their constituent (for example, the constituent's child or relative), in the absence of evidence to confirm that the constituent is acting on behalf of the third party, personal data should generally not be disclosed without the consent of the third party.

5.5 If you have any queries about the disclosure to an elected member in these circumstances then please contact the Data Protection Team: dataprotection@fife.gov.uk.

.

6. Business as Usual Requests

6.1 Where you receive a request from an elected member (including MP/MSP/MEP) and you will be releasing ALL information within 20 working days then you may respond to the elected member as a business as usual enquiry.

6.2 This only applies where the enquiry is routine and the information requires no consideration or redaction.

6.3 In line with the Member and Officer's Protocol, the enquiry must be acknowledged within 2 days and fully responded to within two weeks, unless complex. If it is complex, you must advise the elected members of the reasonable timescales for responding (and within 20 working days).

6.4 It is recommended that you retain a copy of the original enquiry and the response.

7. FOI/EIR Requests

7.1 Where requests do not fall into the above categories, then it is likely that further consideration may be required and exemptions may apply to the information. In these cases requests should be treated formally under the required process.

7.2 These requests are to be directed to information.requests@fife.gov.uk when received by the service.

7.2 Responding to requests under FOI/EIR should not add additional delays in responding to the request and in all instances, these also require to be responded to within 20 working days.

8. Subject Access Requests

8.1 In some cases, where the request requires copies of personal data to be provided, these will require to be managed in line with the Data Protection Legislation 2018.

8.2 This will relate to instances where information requires to be reviewed prior to release to remove any third party data that the applicant is not entitled to receive copies of.

8.3 These requests are to be directed to information.requests@fife.gov.uk when received by the service.

9. Conclusion

9.1 Given the different processes available for responding to elected member enquiries, it can be difficult for Fife Council employees to identify the correct process. Employees should consider this Procedure upon receipt of the enquiry and work through the Process Map at the Appendix.

8.2 The following contact details may be of assistance:

For FOI/EIR/SAR queries please contact:

Information.requests@fife.gov.uk

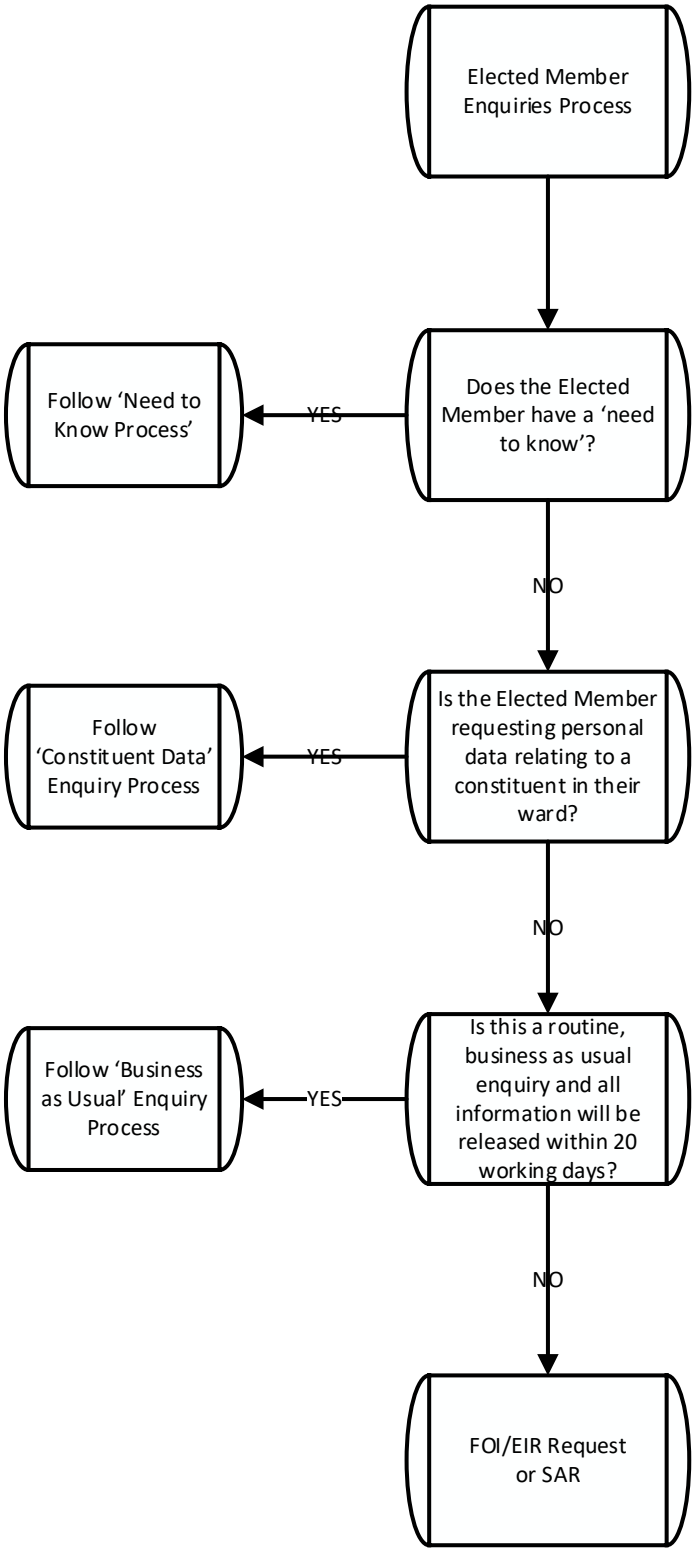
For all other data protection queries please contact:

dataprotection@fife.gov.uk

REVISION:

Date: 19 June 2019 Created by: F Stuart Version: 0.1

Appendix


Elected Member Enquiries Process
Does the Elected Member have a 'need to know'?
YES
Follow 'Need to Know Process'
NO
Is the Elected Member requesting personal data relating to a constituent in their ward?
YES
Follow 'Constituent Data' Enquiry Process
NO
Is this a routine, business as usual enquiry and all information will be released within 20 working days?
YES
Follow 'Business as Usual' Enquiry Process
NO
FOI/EIR Request or SAR

22 August 2024

Agenda Item No. 6

Data Protection Officer Annual Report

Report by:	Fiona Smyth, Data Protection Officer, Legal and Democratic Services
Wards Affected:	All

Purpose

To provide a report from the Council's Data Protection Officer which:

a) Highlights key Data Protection performance statistics for Fife Council;

b) Gives an overview of major developments in relation to data protection law and practice;

c) Summarises Fife Council's data protection priorities for the next three years.

The report covers the period 1st April 2023 – 31st March 2024.

Recommendation(s)

That the Committee:

1. Comments on the 2023/24 performance detailed in this report.
2. Note the overview of major developments in relation to data protection law and practice and the approach planned to meet these within Fife Council.
3. Note the data protection priorities outlined for Fife Council for 2024 – 2027.

Resource Implications

This report does not have any direct resource implications.

Legal & Risk Implications

Failure to comply with UK GDPR impacts on the Council's ability to deliver efficient and effective services, and leaves the Council exposed to reputational damage, and potential enforcement action from the Information Commissioner's Office (ICO).

Although the ICO's public sector enforcement approach avoids monetary penalties except in the most serious cases, such penalties can total up to £17.5 million.

Impact Assessment

An IIA 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

None

1.0 Introduction

1.1 Data protection legislation regulates the way in which the Council can collect, use, manage and disclose personal data. Personal data is any information which is about a living individual who can be identified from it. Data Protection legislation in the UK includes the UK General Data Protection Regulation ("UK GDPR") and the Data Protection Act 2018.

1.2 The Council must only collect, use, manage or disclose personal data when doing so meets the data protection principles. The data protection principles require that personal data be processed:

a) Lawfully, fairly and transparently.

b) Only for the purpose it was collected for, or other connected purposes.

c) When it is adequate, relevant and limited to what is necessary for the stated purpose.

d) When it is accurate and up-to-date.

e) Where it is stored only for as long as it is needed.

f) With appropriate organisational and technical controls to safeguard the security, integrity and confidentiality of the data.

1.3 As a public authority, Fife Council is obliged to appoint a Data Protection Officer ("DPO"). The DPO remit is to assist the Council monitor internal data protection compliance; to provide advice regarding personal data processing, particularly through advising on Data Protection Impact Assessments (DPIA's); and to act as a contact point for data subjects and the ICO, the UK's Data Protection Regulator. The DPO requires to regular report on performance to 'the highest management level' within the Council and it has previously been agreed that, as part of this reporting, this annual report would be presented to the Committee.

2.0 2023/24 Key Performance Statistics

2.1 Data Protection Training

2.1.1 Under the sixth data protection principle, the Council is obliged to deploy appropriate organisational and technical measures to support compliance with its data protection obligations. One of the organisational measures adopted by the Council is providing Data Protection training for all staff.

2.1.2 Data Protection training is mandatory for all staff to complete when they join the Council and every two years of their employment. A Data Protection training module is available via Oracle Cloud. To cover staff who do not have access to Oracle Cloud, Toolbox talks are still available for Services.

2.1.3 The Council aims to achieve a completion rate of data protection training of 95%, which is in line with the recommendation of the ICO.

2.1.4 The Council wide rate of completion of data protection training as at 31 March 2024 was **66.97%** (down from 69.71% as at 31 March 2023).

2.1.5 The Directorate level completion rates as at 31st March 2024 were:

Communities	**65.77%** (up from 62% as at 31/03/23)
Education & Children Services	**75.69%** (up from 73% as at 31/03/23)
Enterprise & Environment	**49%** (up from 33% as at 31/03/21)
Finance & Corporate Services	**78.34%** (down from 98% as at 31/03/23)
Health & Social Care	**78.40%** (down from 80% as at 31/03/23)

2.1.6 It has been disappointing to note that some of the progress made towards meeting the target completion rate has fallen away during 2023/24, and that the Council remains some way off from achieving this target.

2.1.7 A range of improvements to seek to address this have been agreed, including the revamping of training materials for formats other than Oracle online training (for those staff who do not have Oracle access) and the roll out of a Managers Dashboard to enable line managers to monitor completion of mandatory training by team members.

2.1.8 Following a request by the Standards & Audit Committee in August 2023, a training session for Elected Members was offered. This session covered the data protection considerations that Elected Members need to make when undertaking constituency work and when participating in Council and Committee meetings. 14 Elected Members participated in the sessions offered. Any Elected Member who still wishes to undertake this training should contact the Data Protection team to arrange a suitable date.

2.2 Data Protection Breaches

2.2.1 A data protection breach occurs where a breach of security or other incident leads to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. Breaches are generally categorised as affecting either the confidentiality, integrity or availability of personal data.

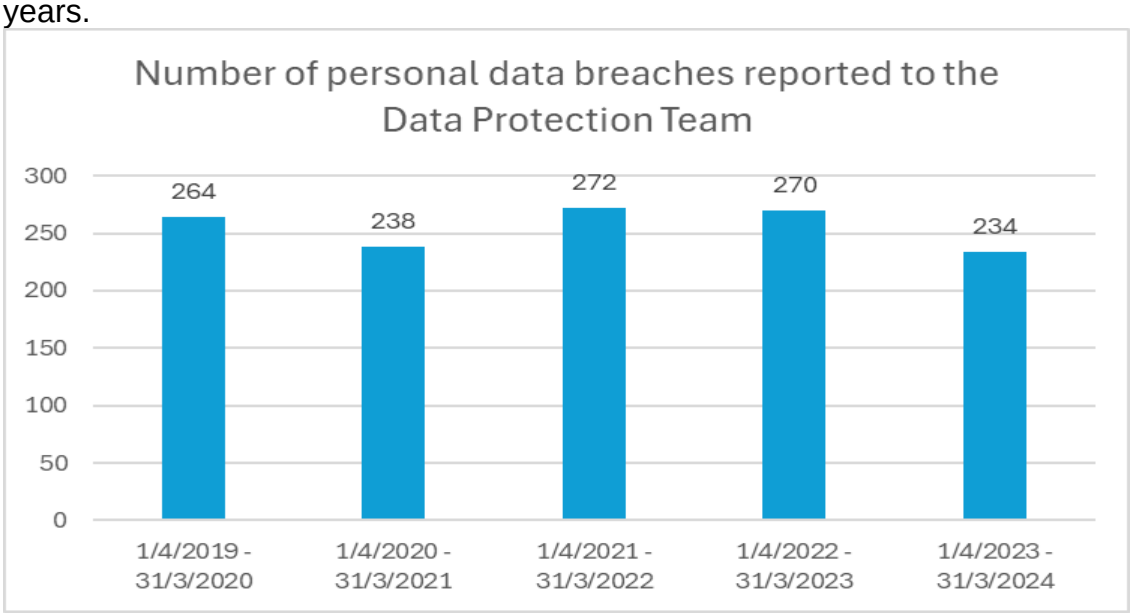
2.2.2 The Councils responsibilities around any such incident are to identify where a personal data breach has occurred and promptly take steps to address the breach. The identification of breaches usually occurs in the team or service that the breach occurs. All identified breaches are required to be reported to the Data Protection team without delay.

2.2.3 Working with the service in which a breach has occurred, the Data Protection Team adopts a three-pronged approach – firstly seeking to contain the breach, secondly to mitigate any impact of the breach and thirdly to investigate how the breach occurred with the aim of preventing it happening again.

2.2.4 In addition, the Data Protection team undertakes an assessment of the impact of the breach on the individual(s) affected by it. Where any breach is likely to result in a risk to people's rights and freedoms it must reported to the ICO within 72 hours of the Council becoming aware of it. Where any breach is likely to result in a high risk to people's rights and freedoms, the Council is obliged to provide formal notification of the breach to them and to provide advice on how the impact of the breach can be mitigated.

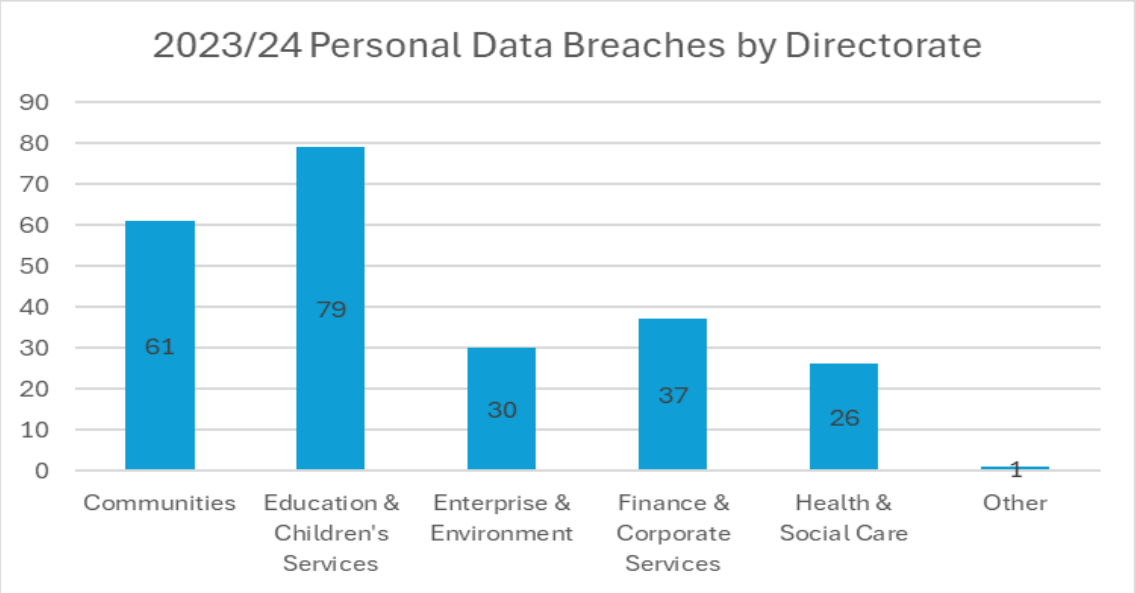
2.2.5 As well as data protection breaches, colleagues are requested to report data protection 'near misses' and other data protection incidents to the data protection team. This allows for a comprehensive overview of potential issues to be analysed and for required improvements to address such weaknesses to be implemented before breaches occur. Whilst the team record near misses, incidents and breaches, the statistics reported below are of breach figures only.

2.2.6 The following chart represents a comparison between the number of data protection breaches received in reporting year, and the previous four reporting years.



2.2.7 For 2023/24, there is a slight fall in total number of breaches reported, however the total reported is broadly within the range seen over recent years, therefore there is not thought to be much significance in such a fall.

2.2.8 The following chart illustrates the numbers reported per Directorate over the last year (1st April 2023 – 31st March 2024).



2.2.9 The split of breaches across Directorates in 2023/24 broadly mirrors those figures seen in previous years, with the most breaches occurring in the Communities and Education & Children's Services Directorates, and there being relatively few in Enterprise & Environment. It is considered that, given the volume of personal data processing undertaken in Communities and Education & Children's Services, and the extent of direct contact with data subjects in that directorate, it is perhaps unsurprising that most breaches occur there.

2.2.10 In terms of the category of breaches, the Council (and the vast majority of other organisations including the Information Commissioner's Office) has received most breaches within the "Personal Information Shared Inappropriately" category. This includes, for example, emails containing personal data being sent to the incorrect recipient.

2.2.11 The Data Protection Team has been monitoring trends in data protection breaches and uses this information to guide engagement with teams and across services. The team made recommendations in respect of 104 breaches during 2023/24, including about the need to revise work processes, about training requirements and around technical and organisational measures in place, or rather not in place.

2.2.12 As above, where a breach is likely to result in a risk to individuals rights and freedoms, it must be reported to the Information Commissioners Office. Of the 234 breaches identified in 2023/24, one met this definition and was reported to the ICO. Following investigation of this breaches by the ICO, no enforcement action or additional recommendations were issued to the Council.

2.2.13 In December 2023, Internal Audit undertook a review of data breach management. The Internal Audit report opinion was that the "system of controls scores 3 and the materiality of the area score 4. This makes the overall risk Medium." The report provided an action plan contains 10 recommendations, 8 of which were graded as moderate and 2 of which were graded as substantial. An action plan to address these recommendations was prepared and endorsed by the ICT Governance Board in April 2024. Of the actions agreed to address the recommendations made in the audit report, four of these had completion dates prior to the end of the period covered by this report. All four of these actions were completed prior to 31 March 2024.

2.3 **Data Subject Rights Requests**

2.3.1 Under UK GDPR, data subjects have rights to:

- Access personal data held about them
- Request rectification of personal data about them held by the Council
- Request erasure of personal data about them held by the Council
- Request restriction of personal data processing undertaken by the Council
- Request data portability of personal data about them held by the Council
- To object to personal data processing undertaken by the Council

2.3.2 The Councils performance in handling Subject Access Requests (SAR) is separately reported to the Committee within the Information Request Annual Report and is therefore not covered in this report.

2.3.3 In 2023/24, the Council received the following:

- **6** rectification requests (increase from 3 received in 2022/23)
- **8** erasure requests (increase from 6 in 2022/23)
- **2** restriction requests (increase from 1 in 2022/23).
- **0** requests for data portability (no change from 2022/23)
- **3** objections (increase from 2 in 2022/23)

2.3.4 Unlike, the right of subject access, which is a universal right, the other rights apply only where certain types of processing are taking place. As such, whilst the **19** requests received by the team have been fully considered, **5** have been upheld in full, whereas the others have been refused because the rights cannot be applied to the nature of processing being done by the Council.

3.0 Data Protection law and practice

3.1 Legislation

3.1.1 During 2023/24, proposed new legislation, the Data Protection and Digital Information (DPDI) was under consideration in the UK Parliament. Based on the contents of the bill as published, it was assessed that many of the key changes it was proposing to make to data protection legislation will not directly impact on the Council, however the following were identified as likely to require the Council to adapt or amend its approach:

- Changes to some definitions in data protection legislation
- New lawful ground for processing personal data
- Changes to data subject access rights
- Changes to the obligations of data controllers and data processors particularly in respect of the appointment of a Data Protection Officer, the conducting of DPIA's and the maintenance of a Record of Processing Activities
- Amendments to the law about international transfers of data
- ICO Enforcement powers and regulatory functions amended

3.1.2 During 2023/24, several key definitions in data protection legislation were updated by the UK Government via statutory instruments, including a revised definition of what "individuals rights and freedoms" are to be considered in breach assessments. Fife Council procedures were updated to reflect these changes where necessary over the course of the year.

3.2 Transfer of personal data overseas

3.2.1 The Council, and its suppliers / processors, can only transfer personal data of UK citizens and residents overseas where an applicable protective measures exists. The range of possible measures essentially seek to ensure that the protections and rights which apply to personal data processing being carried out in overseas are at least as strong as those in the UK.

3.2.2 The availability of protective measures to cover transfers of personal data to the USA has been problematic since the previous scheme, the EU-US Privacy Shield was successfully challenged in court in July 2020.

3.2.3 In June 2023, a new EU-US scheme, called the new EU-US Data Privacy Framework entered into effect. This privacy framework operates in a very similar way to the previous Privacy Shield, in that it enables US organisations to self-certified to the International Trade Administration in the USA of their commitment to adhere to the EU-US Data Privacy Framework Principles.

3.2.4 In September 2023, the UK government announced the establishment of the UK Extension to the EU-US Data Privacy Framework, which expands the EU-US Privacy Framework into a tool that UK data controllers can rely on as the applicable protective measure.

3.2.5 There are a range of checks which the Council requires to complete before relying on the UK Extension to the EU-US Data Privacy Framework. These have been included within the revised DPIA assessment so a record of necessary checks having done is maintained.

3.2.6 When the EU-US Privacy Shield was terminated in July 2020, the Council took a position to limit the transfer of any personal data to the USA unless it was business critical, and no other alternative approach was possible. Thereafter, an interim approach was adopted whereby situations where transfer to the USA was proposed were individually assessed. This approach sought to recognise that, where Standard Contract Clauses were agreed, limited personal data could be transferred where the risk to data subjects were low and the data involved was generally of low privacy impact.

3.2.7 Since the introduction of the UK-US data bridge extension, this individual assessment approach has been continued and wherever possible, the transfer of personal data to the US is limited to situations where the data is of low privacy impact and low risk only, unless compelling business reasons justify otherwise.

3.3 Data Protection Impact Assessments (DPIA's)

3.3.1 A DPIA is a tool to identify the data protection risks of projects which involve the processing of personal data, and to assess if the planned processing meets the Councils obligations under data protection legislation.

3.3.2 The UK GDPR outlines a range of circumstances in which a DPIA must be undertaken prior to processing of personal data commencing. However, a DPIA can also be completed in other circumstances where assurance is needed, and the Council recommends that a DPIA is completed for all occasions when new ways of processing personal data are being designed or when revisions are being planned to existing processing activities.

3.3.3 A revised DPIA template was implemented in January 2024. In the run up to this implementation, 92 colleagues attended DPIA process training to be introduced to the new approach.

3.3.4 The DPIA process requires the DPIA author to complete three sections, detailing the data, the processing, and the impact of the processing. The DPIA is then submitted to the data protection team for assessment. The data protection team assess the planned processing against each of the data protection principles to identify if the principles are met in full, partly met, or not yet met. The assessment, along with any recommendations to achieve compliance, are then forwarded to the relevant Information Asset Owner who is the decision maker for whether the processing should proceed or not.

3.3.5 In the period 1 January 2024 – 31 March 2024, the data protection team assessed **37** DPIA's.

3.3.6 Further development of the new process, to include the digitalisation of the DPIA template, is underway.

4.0 Fife Council Data Protection priorities 2024 - 2027

4.1 Legislative Change

4.1.1 The Data Protection and Digital Information bill mentioned in section 3.1, failed to be passed prior to the dissolution of parliament in June 2024. The 2024 King's Speech announced that the government will bring forward a Digital Information and Smart Data bill which will include some of the provisions outlined above. The Data Protection team will therefore have a key priority in 2024/25 to follow the development of new legislation in this area to ensure the Council is prepared to meet any new requirements that emerge.

4.2 ICO Accountability Framework

4.2.1 Under the UK GDPR, the Council is obliged to demonstrate accountability. In other words, the Council must be able to demonstrate the ways in which it ensures that it complies with data protection law.

4.2.2 The ICO has published an accountability framework which is a tool to assist organisations in meeting this requirement. The framework covers 10 categories:

- Leadership & Oversight
- Policies and procedures
- Training and awareness
- Individuals' rights
- Transparency
- Records of processing and lawful basis
- Contracts and data sharing
- Rights and DPIA's
- Records management and security
- Breach response and monitoring

4.2.3 The ICO have also published an accountability framework self-assessment to enable organisations to assess the extent to which they are meeting the ICO's expectations in relation to accountability. This self-assessment indicates that the Council's arrangements in all 10 categories above partly meet the ICO's expectations, but that improvements can be made.

4.2.4 An action plan to address these improvements, to be delivered over the next three years is currently being developed. The completed action plan will be presented to the ICT Governance Board in October 2024 for consideration and future DPO reports to the Committee will update on progress made to meet the actions agreed.

4.3 New and emerging technologies

4.3.1 The data protection team continues to work alongside colleagues across the Council in embracing the opportunities presented by new and emerging technologies, such as AI, as well as managing and mitigating the risks that these technologies presents.

List of Appendices

None

Background Papers
In terms of the Local Government (Scotland) Act, 1973, no background papers were relied upon in the preparation of this report.

Report Contact

Author Name: Fiona Smyth
Author's Job Title: Data Protection Officer
Workplace: Fife House
Telephone:
Email: Fiona.smyth-fc@fife.gov.uk

28 June 2024

Agenda Item No. 8

Standards, Audit and Risk Committee Workplan

Report by: Eileen Rowand, Executive Director, Finance and Corporate Services

Wards Affected: All

Purpose

This report supports the Committee's consideration of the workplan for future meetings of the Committee.

Recommendation(s)

It is recommended that the Committee review the workplan and that members come forward with suggestions for specific areas they would like to see covered in any of the reports.

Resource Implications

Committee should consider the resource implication for Council staff of any request for future reports.

Legal & Risk Implications

Committee should consider seeking inclusion of future items on the workplan by prioritising those which have the biggest impact and those which seek to deal with the highest level of risk.

Impact Assessment

None required for this paper.

Consultation

The purpose of the paper is to support the Committee's discussion and therefore no consultation is necessary.

1.0 Background

1.1 Each Committee operates a workplan which contains items which falls under the headings: items for decision and Scrutiny/Monitoring. These items will often lead to reactive rather than proactive scrutiny. Discussion on the workplan agenda item will afford members the opportunity to shape, as a committee, the agenda with future items of business it wishes to review in more detail.

2.0 Conclusions

2.1 The current workplan is included as Appendix one and should be reviewed by the committee to help inform scrutiny activity.

List of Appendices

1. Standards, Audit and Risk Committee forward work plan.

Background Papers

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act, 1973:-

None

Report Contact

Helena Couperwhite
Committee Services Manager
Telephone: 03451 555555 Ext. No. 441096
Email- helena.couperwhite@fife.gov.uk

Standards, Audit and Risk Committee of 30 September 2024			
Title	**Service(s)**	**Contact(s)**	**Comments**
Minute - 22 August 2024			
Audited Annual Accounts			
Issued Audit Reports	Finance and Corporate Services	Pamela Redpath	
Audited Charitable Trust Accounts			
Risk Management Update	Finance and Corporate Services	Pamela Redpath	

Standards, Audit and Risk Committee of 31 October 2024 - Provisional for Accounts			
Title	**Service(s)**	**Contact(s)**	**Comments**
Minute - 30 September 2024			
Fife Council and Charitable Trusts Annual Accounts			

Standards, Audit and Risk Committee of 28 November 2024			
Title	**Service(s)**	**Contact(s)**	**Comments**
Minute - 31 October 2024			
Issued Audit Reports	Finance and Corporate Services	Pamela Redpath	
Standards Update – annual reports, hearing outcomes and consultations	Finance and Corporate Services	Lindsay Thomson	
National Fraud Initiative (NFI) in Scotland 2023	Finance and Corporate Services	Pamela Redpath	
Forward Work Programme			

Standards, Audit and Risk Committee of 13 February 2025			
Title	**Service(s)**	**Contact(s)**	**Comments**
Minute - 28 November 2024			
Issued Audit Reports	Finance and Corporate Services	Pamela Redpath	
Forward Work Programme			

Standards, Audit and Risk Committee of 24 April 2025			
Title	**Service(s)**	**Contact(s)**	**Comments**
Minute - 13 February 2025			
External Audit Annual Plan to Year Ended 31 March 2025	Finance and Corporate Services	Pamela Redpath	
Issued Audit Reports	Finance and Corporate Services	Pamela Redpath	
Forward Work Programme			

Standards, Audit and Risk Committee of 30 June 2025			
Title	**Service(s)**	**Contact(s)**	**Comments**
Minute - 24 April 2025			
2024/25 Internal Audit Annual Report	Finance and Corporate Services	Pamela Redpath	
Fife Council Local Code of Corporate Governance	Finance and Corporate Services	Lindsay Thomson	
Annual Governance Statement for the year to 31 March 2025	Finance and Corporate Services	Elaine Muir	
Fife Council Draft Annual Accounts	Finance and Corporate Services	Elaine Muir	
Fife Council Charitable Trusts - Unaudited Annual Report and Financial Statements 2023-24	Finance and Corporate Services	Elaine Muir	
Forward Work Programme			

Unallocated			
Title	**Service(s)**	**Contact(s)**	**Comments**
Internal Audit Charter	Finance and Corporate Services	Pamela Redpath	
Safeguarding Public Money: are you getting it right?		Pamela Redpath	TBC