

Meeting
02/07/10

Agenda Item
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Reference No
HEFCW/10/68

1 Issue

This paper provides for information an annual report of requests received by the Council under the Freedom of Information Act 2000 for the financial year 2009-10.

2 Corporate Planning Implications

The Council shall, under its '*Making It Work*' Strategic Aim, fulfil the Assembly's expectations in respect of Freedom of Information and Records Management.

3 Recommendation

The Committee is invited to:

- i. Note the requests for information received under the Freedom of Information Act in 2009-10.

4 Timing for decisions

The report is received by the Council at the end of each financial year.

5 Council members' interests

No conflicts of interests have been declared in advance of the meeting.

6 Further information

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7 Background

- 7.1 The Freedom of Information Act 2000 gives the public a right of entitlement to information held by HEFCW.
- 7.2 Requests in writing are received either through the info@hefcw.ac.uk email account or directly by the Clerk to the Council. The Clerk co-ordinates the response with the relevant staff (the 'information-owners').
- 7.3 When requests are refused, the applicants may apply for a review of the decision. This would be carried out by senior officers independently of the original officers. If the applicant was dissatisfied with the final outcome, they can appeal to the Information Commissioner.
- 7.4 In 2009-10, we refused two requests for information under section 36 of the Act: *disclosure would inhibit free and frank provision of advice* and section 43: *disclosure would prejudice commercial interests*. One of these decisions was appealed against.
- 7.5 To date there has been one appeal for review, which culminated in an appeal to the Information Commissioner.

8 Requests under the Act 2009-10

- 8.1 General FoI requests to HEFCW have remained low, but do differ in terms of resources required to respond within the 20 days time limit, and have varied between 0.25 and 20 days officer time.

2005-06	7 requests received
2006-07	6 requests received
2007-08	5 requests received
2008-09	9 requests received
2009-10	10 requests received

- 8.2 Applicant identity has included the national press and media, teaching unions and public sector employees.
- 8.3 In accordance with the Publication Scheme, HEFCW is proactively publishing information on its website. The Publication Scheme has been brought into line with the model provided by the Information Commissioner and was further developed and launched with the new HEFCW website in August 2009. Past disclosable Council papers dating back to 2000 are currently being made available on the HEFCW website.
- 8.4 In addition to requests for information under the Freedom of Information Act, HEFCW has received 76 queries for information in 2009-10 via its 'info@hefcw.ac.uk' email address. This is in comparison with 90 queries for information in 2008-09 and 170 requests for information in 2007-08.

Appeal against an Fol decision

- 8.5 During 2009-10, two requests for HEFCW's external consultant report into the University of Wales, Lampeter were received. Both requests were refused under exemptions 36 and 43 of the Fol Act. One of these decisions was returned to a requestor on 28 May 2009 and was duly appealed against. This was the first appeal against an Fol response received by HEFCW.
- 8.6 By 26 June 2009, an internal review had been carried out and the initial decision was upheld. In accordance with the *Freedom of Information Act requests to HEFCW: Appeals against decisions Policy*, the requester was informed that they could appeal to the Information Commissioner if dissatisfied with the review decision.
- 8.7 The Information Commissioner contacted HEFCW on 16 November 2009 to inform that the appeal was being considered and requested a full copy of the Report in order to investigate the complaint against HEFCW's decision.
- 8.8 On 23 December 2009, following further developments concerning University of Wales, Lampeter and a review of the balance of public interest against the exemption criteria, a redacted version of the Report was published on HEFCW website and copied to the complainant.
- 8.9 On 21 May 2010 following a request from the Commissioner, HEFCW provided details of the initial response and application of Fol exemptions, as well as justification for the current redactions. To date, a final Commissioner response is awaited. HEFCW have noted the need to apply every exemption throughout all stages of an Fol response, as highlighted by the Information Commissioner.

9 Financial implications

- 9.1 There are no financial implications for the Council arising from this paper. Responsibility for managing HEFCW's Fol compliance rests with the Clerk to the Council as 5% of post duties. Based on current activity levels, this resource is sufficient to manage this process.

10 Communications implications

- 10.1 Transparency in communicating the Council's work serves to reduce the number of Fol requests. Work is ongoing to further develop the electronic information available on the website eg disclosable Council papers dating back to 2002.

11 Diversity and Equal Opportunities implications

- 11.1 This paper has no implications for age, disability, gender, race, religious belief, sexual orientation or the Welsh language.

12 Risk Assessment

RISK	ACTION TO ADDRESS RISK
Legal action taken by the requestor under the Act for failure by the Council to respond to requests for information under the Freedom of Information Act within the statutory 20 days	Requests received and co-ordinated by the Clerk to the Council who manages the response schedule.
Resource implications of a request for a large volume of information held by the Council	Requests discussed with information holder at earliest possible stage to determine volume.