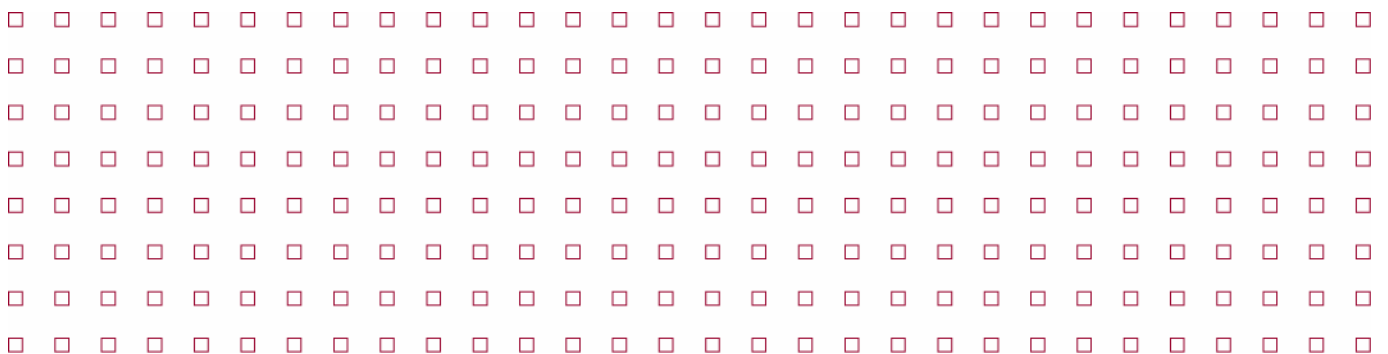




Summary guidance on publishing Freedom of Information data

30 July 2009



Contents

Introduction	2
Who's the guidance for?	2
1. Summary of definition of 'non-routine' information requests to be counted in Freedom of Information monitoring	2
2. Frequently asked questions	5

Introduction

The Ministry of Justice with the support of the Local Government Association and the Information Commissioner's Office has undertaken to encourage Local Government and other bodies to publish information to the same standard as the MoJ currently publishes Central Government and Crown-body information. The Central Government information is already published and can be seen at

<http://www.justice.gov.uk/publications/freedomofinformationquarterly.htm>

The objective is to help increase accountability, transparency and performance of all bodies covered by the Freedom of Information Act, not just Central Government.

Who's the guidance for?

It's for all bodies covered by the Freedom of Information Act who do not currently report their statistics through the Ministry of Justice release. This includes Local Government.

The guidance below is that issued to bodies who currently report through the Ministry of Justice statistics and we are encouraging all bodies to publish their own information to these standards.

While the standards below may refer to the Ministry of Justice; this equates to the standard we are encouraging all bodies to aim for.

1. Summary of definition of 'non-routine' information requests to be counted in Freedom of Information monitoring

The Ministry of Justice Freedom of Information statistics do not count every single information request submitted to central government monitored bodies. Only 'non-routine' information requests are counted. This section provides a definition of which information requests count as 'non-routine', and is taken from Appendix A of the quarterly statistical bulletins published on the Ministry of Justice website at

<http://www.justice.gov.uk/publications/freedomofinformationquarterly.htm>.

1.1 Defining the scope of Freedom of Information monitoring

Section 1 of the Freedom of Information Act 2000 (Fol) states that (subject to certain conditions):

‘Any person making a request for information to a public authority is entitled—

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him’

Regulation 5 of the Environmental Information Regulations 2004 states that (subject to certain conditions):

‘A public authority that holds environmental information shall make it available on request.’

Following their introduction on 1 January 2005, the above provisions apply to all relevant requests for information made to public authorities, no matter how routine and straightforward they may be.

Government departments supply large amounts of information, both on request and proactively, as an established and routine part of their business. This includes information released in the form of leaflets, correspondence exchanges, reports and other published material, and through websites and departmental Fol Publication Schemes. All information released on request is covered by the Freedom of Information Act. However, it would be both uninformative and fundamentally unfeasible to count all such activity in departmental Freedom of Information monitoring returns.

The statistics in this bulletin therefore relate only to **the ‘non-routine’ information requests** that government departments have received. Essentially, this means that departments’ statistics should only count those requests where:

- it was necessary to take a considered view on how to handle the request under the terms of the Freedom of Information Act, and
- departmental Freedom of Information officer(s) were informed of the request and logged it in their case management systems.

1.2 Defining a request

The full definition of an ‘information request’ for the purposes of inclusion in the Ministry of Justice’s monitoring returns is shown below. This definition was circulated to members of the central government ‘Freedom of Information Practitioners’ Group’ in November 2004.

[An information request for monitoring purposes is one ...]

1. Which meets the criteria in section 8 of the Freedom of Information Act and if the request falls under the Environmental Information Regulations it includes requests made in any form or context, including oral requests; **and**

2. Which is a request for information that is not already reasonably accessible to the applicant by other means; **and**
 - (i) Which results in the release of one or more documents (in any media) or inclusion of extracts of documents in the information released; **or**

 - (ii) Results in information being withheld under an exemption or exception from the right of access (either the Freedom of Information Act or the Environmental Information Regulations); **or**

 - (iii) The request is not processed because the department estimates the cost of complying would exceed the appropriate limit in accordance with section 12 of the Freedom of Information Act; **or**

 - (iv) The request is not processed because the department is relying on the provisions of section 14 of the Freedom of Information Act; **or**

 - (v) Where a search is made for information sought in the request and it is found that none is held.'

1.3 Consistency of the statistics in Ministry of Justice statistical bulletins

It is necessary to apply a definition of this sort in order to set a clear boundary to the coverage of our monitoring, and thereby obtain meaningful information from the process. The definition shown above has been widely disseminated to Freedom of Information officers in government and we have tried to ensure that it is applied consistently across all monitored bodies.

However, there is considerable variation in the way these bodies are structured and managed, and in the mechanisms that they have put in place to meet their obligations under the Freedom of Information Act. For example, some bodies operate a centralised Freedom of Information secretariat that co-ordinates responses to all information requests received. Others give a greater degree of autonomy to individual work areas in the handing of information requests.

As a result of these differences, **there is likely to be a degree of inconsistency** in the way in which bodies have interpreted and applied the

definition of an ‘information request’ for monitoring purposes. Although we cannot estimate the extent or effect of the likely inconsistency, it is very important to bear in mind when using the figures in the bulletins, particularly when comparing statistics for individual bodies.

In summary, it is important to note that:

These statistics only cover ‘non-routine’ information requests, and do not give a representative picture of all requests for information received in government.

There is likely to be a degree of inconsistency between monitored bodies’ interpretations of the definition of an ‘information request’ for monitoring purposes. This should be borne in mind when using these statistics.

2. Frequently asked questions

This section presents Question-and-Answer guidance on various aspects of the Ministry of Justice’s Freedom of Information monitoring statistics which local government may want to consider when publishing and their own statistical information.

2.1 Arrangements for collecting statistics

Which requests are counted in a particular quarter’s or year’s statistics?

The Ministry of Justice Freedom of Information monitoring statistics count:

- (a) Only those requests which are considered to be **‘non-routine’** – see definition in Section 1 above.
- (b) Only those requests which were **initially received** by the monitored bodies during the time period in question. Requests which were initially received before or since that period are not counted, even if the monitored bodies have responded to, or dealt with some aspect of, the request during the time period. These requests will be counted in the statistics for the period in which they were initially received.

How do the monitored bodies supply data to the Ministry of Justice?

At the end of each quarter, Freedom of Information officers in each monitored body covered by the Ministry of Justice’s statistics fill out a spreadsheet proforma (see the two ‘FOI Monitoring Proforma’ spreadsheets

which accompany this guidance) with summary data extracted from their case management system(s), and send it to the Ministry of Justice statistics team which compiles the statistics. Local government bodies are not of course required or expected to send their completed spreadsheets through to the Ministry of Justice, but may wish to publicise the information locally in accordance with their own procedures. One further spreadsheet entitled 'Presentational Tables' is comprised of a series of tables which local government bodies may want to adapt and use to present their own quarterly and annual information locally.

Further guidance on entering data into the spreadsheet can be found in Section 2.2. Additionally, the spreadsheet contains a range of Help Text which provides advice to data suppliers on how they should enter data.

When could data collection take place?

For the purposes of the statistics and in the interests of consistency across government, each quarter/year has a 'monitoring date'. This is the 21st working day after the end of the quarter/year. At this point, all requests initially received during the period will either have been provided with a substantive response, or will have been in processing by the receiving body for at least 20 working days. The timeliness of all requests will therefore be known, i.e. whether each request has:

- (a) been responded to within the 20-working day deadline set out in the Freedom of Information Act; or
- (b) has not been, or will not be, responded to within 20 working days, but an extension has been applied to allow additional time to consider the public interest in whether or not to disclose the information being requested; or
- (c) has been, or will be, responded to in over 20 working days and has no valid extension applied – i.e. answered late.

Data collection takes place in the weeks following the monitoring date.

Which statistics are collected quarterly, and which statistics are collected annually?

Statistics are collected each quarter on:

- (a) The total number of requests initially received during the quarter.

- (b) The timeliness of those requests – i.e. how many responded to within 20 days, outside 20 days but with a valid public interest test extension applied, or outside 20 days and without a valid extension.
- (c) The outcomes of those requests, where they had received a substantive response (i.e. not a holding reply) by the monitoring date for the quarter, split into eight categories – i.e. for how many the requested information was granted in full, withheld in full, etc.
- (d) The number of times each category of Freedom of Information Act exemptions and Environmental Information Regulation exceptions was applied when withholding requested information.

At the same time that the statistics for the fourth quarter of the year (Oct-Dec) are collected, annual statistics relating to requests received in the calendar year as a whole are also collected. These annual statistics cover:

- (a) The total number of requests received during the calendar year, their outcomes and any exemptions/exceptions used (this is the annual ‘mop-up’ – see below).
- (b) The durations of the public interest test extension periods, for all requests initially received during the year where additional time was required to consider the public interest in whether or not to disclose the information being requested.
- (c) The number of requests initially received during the year which had been referred for Internal Review* by the time of the monitoring date; how many of these reviews had been completed by the monitoring date; how many of these resulted in the initial handling being overturned or upheld; and the duration of the Internal Reviews.
- (d) The number of requests initially received during the year which were appealed to the Information Commissioner*; how many of these had been completed by the monitoring date; how many of these resulted in the initial handling being overturned or upheld.

[* The statistics on Internal Reviews and appeals to the Information Commissioner relate only to those where the review or appeal was against the non-disclosure of information. Reviews or appeals for other reasons (e.g. delays in receiving a response) are not counted.]

What is the annual ‘mop-up’?

The ‘mop-up’ is part of the annual calendar year statistical collection. This comprises statistics on:

- (a) The total number of requests received during the calendar year
- (b) The outcomes of those requests, for those which had received a substantive response by the monitoring date for the fourth quarter/year;
- (c) The number of times each category of Freedom of Information Act exemptions and Environmental Information Regulation exceptions was applied when withholding requested information.

Although these statistics are also collected for each quarter of the year, the annual mop-up provides a more complete picture of information requests received throughout the whole calendar year. A body's annual mop-up figures will not usually exactly equal the sum of the corresponding figures from each of the four quarters of the year. The annual mop-up statistics will include the outcomes of those requests which were received in one of the first three quarters of the year, which had not received a response by the time of that quarter's monitoring date, but which had received a response by the time of the fourth quarter / year monitoring date. The annual mop-up statistics will also include any requests which were omitted from the earlier quarterly statistics (e.g. due to departmental Fol officers not being notified of the request in time for inclusion), which had been erroneously counted in more than one quarter's statistics, and so on.

Why are no timeliness statistics collected as part of the annual mop-up?

The Ministry of Justice's annual timeliness statistics are calculated by aggregating the timeliness statistics collected from each of the four quarters of the year. Since statistics are not collected until the monitoring date for each quarter has passed, the timeliness of every request recorded in the quarterly statistics is known.

Although the annual timeliness statistics will not include, for example, any requests accidentally omitted from the earlier quarterly statistics, it is felt that this is unlikely to have any material effect on the annual timeliness data.

Do the annual statistics on ICO appeals match the ICO's own statistics?

No. The Ministry of Justice's appeals statistics only relate to those requests which were initially received during each year and where the appeal stage was reached by the time of the monitoring date. Requests which proceed to appeal after this time will not be counted. Furthermore, the appeals statistics will only relate to those appeals where the ICO have informed the monitored body of the appeal, and the monitored body has recorded the appeal on their casework management system.

2.2 Recording data in the spreadsheet proformas

If a request has an outcome which does not necessarily fit into just one of the eight outcome categories, how should data suppliers record this in the spreadsheet proforma?

Every 'non-routine' request which has been given a substantive response by the time of the quarter's/year's monitoring date should be assigned **exactly one** outcome category in the statistics. A complex request whose outcome could potentially be recorded under two or more of the categories must still only be recorded under one. Departmental FoI officers have been advised to count such a request under the single category which they consider *best* reflects the outcome of the overall request – this would usually be the outcome of the most substantive part.

There is no category for requests where the monitored body neither confirms nor denies that it holds all or part of the information requested. How should data suppliers record such requests in the spreadsheet proforma?

For the purposes of the statistics, these requests should be considered a 'refusal' and counted under the outcome categories for being withheld in part or withheld in full as appropriate.

There is no option in the spreadsheet proforma for recording the application of an exemption under Section 21. How should data suppliers record requests where Section 21 is applied?

Section 21 relates to information being accessible by other means.

- (a) Requests which are **withheld in full solely under a Section 21 exemption should not be counted at all in the statistics**. If all the requested information is available elsewhere, then the amount of consideration time for the monitored body in responding to the request would usually be relatively small. Therefore, for the purposes of the statistics, such requests do not meet the formal definition of a 'non-routine' request and therefore are not counted in the monitoring statistics.
- (b) Requests where part of the information is withheld solely under Section 21 and part is not should be recorded under what has happened regarding the 'non-Section 21' information. For example, if part of the information requested is exempted under Section 21 and the rest is withheld under a Section 33 exemption, this should be recorded in the statistics as a request which is withheld in full under Section 33. For example, if part of the information requested is exempted under Section 21 and the rest is disclosed to the requester, then this should be recorded in the statistics as a request which is granted in full.

There is no option in the spreadsheet proforma for recording the application of an exemption under Section 39. How should data suppliers record requests where Section 39 is applied?

The exemption listed at section 39 of the Freedom of Information Act ('Environmental Information') effectively states that information requests which fall within the scope of the Environmental Information Regulations (EIRs) should be handled as these Regulations specify. Requests for environmental information which are refused should apply one of the EIR exceptions listed in the proforma.

How should we record requests where a fee has been charged be recorded by data suppliers in the spreadsheet proforma?

For requests where a fee was charged, but the request was processed before the monitoring date for the quarter, these should be recorded in the timeliness statistics, outcomes and exemptions/exceptions statistics in the same way as all other answered requests (with any time taken between the fee being requested and the fee being paid being ignored when calculating whether the request was answered within 20 working days).

For requests where a fee was charged, but which had not be answered by the monitoring date for the quarter, these should be recorded under cell Bii of the timeliness page of the spreadsheet proforma. No information should be included in the outcomes or exemptions/exceptions statistics for these requests, as they had not been answered by the monitoring date. This also applies for those requests where the fee payment deadline has elapsed and the request has not been processed.

How should data suppliers record requests which at the monitoring date for the quarter/year are considered to be 'on hold' awaiting further information from the requester in order to identify and locate the information requested?

These requests would normally be counted in the spreadsheet proforma as having been processed in full, with the outcome that 'advice and assistance' were provided to the requester because further information was needed in order to identify the information being sought.

If the requester subsequently provided the necessary clarification and the body resumed processing before the monitoring date, the amended request would usually either replace the original in the statistics, or would be considered as a new, separate request; this will often depend on processes used by the monitored body or the magnitude of the difference from the nature of the original request.

What are the validation rules in the spreadsheet proformas?

The validation rules in the spreadsheet ensure that the data supplied by monitored bodies are arithmetically consistent. For example, that the sum of the individual outcome categories matches the total number of requests which had received a substantive response. A macro in the 'VALIDATION' worksheet gives data suppliers an automated check of many of these arithmetic consistencies.

Should requests which are dealt with under the Environmental Information Regulations be recorded by data suppliers in the spreadsheet proforma?

Yes. However, these are not separately identified from those requests falling solely under the Freedom of Information Act, other than how many of them there are in total during the quarter/year.

Should subject access requests under the Data Protection be recorded by data suppliers in the spreadsheet proforma?

These would not normally be counted, unless a response was provided under the Freedom of Information Act (for example, with information being withheld under Section 40 of the Fol Act).

2.3 Presentation of summary data in statistical bulletins

Which requests are counted in the quarterly timeliness tables?

All requests fulfilling the definition of 'non-routine' and initially received during the quarter should be included. This should include those requests which had not received a substantive answer at the monitoring date, as the timeliness of these will still be known by the time the statistics are collected from data suppliers.

What are 'resolvable' requests in the tables on request outcomes?

For the purposes of the statistics, 'resolvable' requests are a subset of the total, defined as being those where it would have been possible for the monitored body to give a substantive decision on whether to release the information being sought. 'Resolvable' requests therefore do not include:

- (a) Requests which where a fee had been charged, but had not been paid by the monitoring date (i.e. are either on-hold awaiting fee payment, or are lapsed with the payment deadline having passed).
- (b) Requests for information not held by the monitored body.
- (c) Requests responded to with 'advice and assistance' because the monitored body needed further information in order to identify the information being sought.

All requests where a response was not provided by the monitoring date are also counted as 'resolvable'. This assumption is likely to be generally true but may be incorrect in a small number of cases. The statistics in the tables on the percentages of requests which are granted in full or withheld in full are calculated using the number of 'resolvable' requests as the denominator.

Which spreadsheet is most appropriate for presenting statistics locally on websites and in annual reports or corporate plans?

The spreadsheet entitled 'Presentational Tables'. This spreadsheet is based on the sort of tables that the MoJ uses to present central government data quarterly and annually. Local government bodies may wish to adopt or adapt this spreadsheet when drawing information from the two 'FOI Monitoring Proformas' for the purpose of communicating information about their performance annually and quarterly. The 'Presentational Tables' sheet contain detailed notes setting out from which cells on the two 'FOI Monitoring Proformas' information should be drawn and inputted into the relevant cells on the 'Presentational Tables' sheet.

2.4 Further information

The **quarterly and annual statistical reports** published by the Ministry of Justice can be found at

<http://www.justice.gov.uk/publications/freedomofinformationquarterly.htm>

The appendices and Explanatory Notes sections of each provides details of the central government bodies which are covered by the Ministry of Justice's statistics and a range of other information.

For any queries about the Ministry of Justice's Freedom of Information monitoring statistics please contact the Constitution and Access to Justice Analytical Services division:

Constitution and Access to Justice Analytical Services
6th Floor
102 Petty France
London
SW1H 9AJ

Tel: 020 3334 3087
email: statistics.enquiries@justice.gsi.gov.uk

Further information about the Freedom of Information Act can also be found on the Ministry of Justice website at

<http://www.justice.gov.uk/guidance/freedom-of-information.htm>

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