PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINITY COMMITTEE

POST LEGISLATIVE SCRUTINITY - FREEDOM OF INFORMATION (Scotland) ACT 2002

SUBMISSION FROM: Patricia Anderson

REASONS FOR THIS SUBMISSION

I am making this submission because I firmly believe in the aspiration of the FoISA 2002 - that any member of the public should be able to access non-sensitive information from a public body. As part of our research for the Give Them Time campaign over the past ten months, we have encountered many time-consuming obstacles in obtaining such information from local authorities and believe the process has room for improvement. The core members of the campaign are highly literate and we have been able to divide the submission and tracking of FoI requests between us. Due to these factors we were able to persevere to get the information we were looking for in the end. However, it shouldn't have been as difficult as it often was and we do not believe there are currently enough measures in place to ensure that the spirit of the law is upheld and that information is accessible to any member of the public with the submission of only a single request. Submitting Freedom of Information requests should be easy for everyone to do, not just those who are more able to articulate themselves and who can find the time to pursue them.

EXAMPLES OF BEING PROVIDED WITH INACCURATE INFORMATION BY COUNCILS

1. FIFE COUNCIL

You can see from the email thread between myself and Fife Council in Annexe 1 regarding my Freedom of Information request of 11 December 2018 that in their initial 7 January 2019 response I was told in point 1 that "Fife Council do not operate discretionary referrals". I should not have had to respond by quoting the relevant legislation in order to get the answers I was seeking when local authorities have been able to award discretionary deferral funding for a further year of nursery since 2000.

2. FIFE COUNCIL

You can also see from Fife Council's letter dated 11 Feb 2019 in Annexe 1 that Fife Council was able to provide me with the total number of deferred children who received discretionary nursery funding for a further year but not the total number of applications they had received for this (see the penultimate sentence of the third last paragraph: "In addition they [Fife Council] do not hold the total number of applications for deferral made for each year"). However, at the Fife Full Council Meeting on Thursday 2nd May 2019, Councillor Sinclair stated (at 3 hours 47 minutes into the recording which can be viewed here\(^1\) that, "No more than five such [discretionary deferral] requests a year have previously been refused". I inferred therefore that the information in the 11 February 2019 letter I received

\(^1\) https://join-emea.broadcast.skype.com/fife.gov.uk/6577b1af50284977b2f22adff3c302c5/en-US/
must have been incorrect as how else could Councillor Sinclair have known the total number refused each year if she had not been provided with the total number of applications to compare them with the total granted? I submitted a formal complaint to Fife Council and to the ICO regarding this but neither were upheld due to an exemption clause in the FoI SA 2002 (see Annexe 1(B)). I am extremely disappointed that a councillor was able to obtain such information – even though it was a best guess estimate - which a member of the public was not.

3. HIGHLAND COUNCIL

Please see the email thread in Annexe 2 between myself and Highland Council and in particular my email of 14th January 2019 and Highland Council's response on 30th January 2019. These show that data provided in a previous FoIR was incorrect and based on the person having "asked a number of managers" rather than hard data. Had I not submitted a subsequent FoIR, we would not have discovered the data provided previously was only an estimation. Councils should be more transparent when they are providing estimations rather than fact.

4. RENFREWSHIRE COUNCIL

The data provided by Renfrewshire Council on 9th January 2019 to my 13th December 2018 FoI request was incorrect but as you can see in Annexe 3 this was only corrected after I sent three follow-up emails on 9th Jan 2019, 5th Feb 2019 and 17th March querying the seemingly high numbers. I finally received the correct response to my 13th Dec 2018 FoI request more than three months later on 22nd March 2019.

5. GLASGOW CITY COUNCIL

Please see my email of 5th May 2019 in Annexe 4 to Glasgow City Council which refers to another FoIR from Glasgow City Council (Annexe 4(B)) showing how I had been provided with incorrect data. You can see in Glasgow City Council’s email of 10th May 2019 that it had previously provided me with inaccurate information. As with the Highland Council example above, had I not submitted a subsequent related FoIR, this inaccuracy would not have been revealed.

INVERCLYDE COUNCIL

6. On 29th January 2019, after sending an email to Inverclyde Council from a private email account to challenge the data provided by the Council in it’s 19th Dec 2018 response, you can see that the message sent by the Council in Annexe 5 acknowledges that its previous response of 19th Dec 2019 to my 11th Dec 2018 FoIR was incorrect. As well as some differences in the data provided by the Council on 11th and 19th Dec, the data provided in both of these responses was significantly different to the data provided in a separate FoI response of 31st July 2018 (see Annexe 5(B)). This was a variation of 87% from originally stating that the Council approved 100% of discretionary deferral funding requests in recent years to only 13%. This took quite a lot of emails and screenshotting of extracts from previous responses to elicit the correct information from the Council. In autumn 2018 the
Give Them Time campaign crowdfunded to finance the printing of leaflets containing some of the data councils had provided via FoI on discretionary deferral approval rates. Having trusted the information councils provided, these leaflets listed Inverclyde as having a 100% approval rate in recent years.

DIFFICULTY OBTAINING INFORMATION

7. On various occasions we have had to request internal reviews when local authorities have not responded to an FoIR within the statutory 20 working days. We do not feel that the responsibility to chase this up should be that of the person who submitted the FoIR. If there is a legal requirement for a council to reply within 20 working days, then the onus should be on them, rather than on the requester, to ensure this response is received. At present it can at times feel like councils use requests for review as a sort of reminder service. Examples of reviews requested can be seen here:

a) See email thread in Annexe 3 between myself and Renfrewshire Council showing that a response was not provided for over 3 months.

b) See email thread in Annexe 6 between myself and West Dunbartonshire Council showing that a response was not provided for 3 months. I reported this delay to the Scottish ICO who investigated. WDC could not prove to the Scottish ICO that the email they alleged had been sent to me on 21st Dec 2018 had actually been sent. Despite this I dropped the matter with the ICO when WDC finally provided the response on 12th March 2019.

8. On 3rd May 2019, one of the key people behind the campaign submitted an FoI request to a Glasgow City Council email address. The person received a response from the same email address later that day stating that, “I am unable to provide this information, when requesting information like this. It must go through the Freedom of Information Team. I have included their e-mail below foi_cct@glasgow.gov.uk”

We were not put off and the requester resent the email to the address provided but our understanding of the law is that if a council email address is contacted and the sender expresses that they wish to make a Freedom of Information request in the message (which we did), then the council must accept it as such rather than replying to advise that the sender needs to resend the request to a different address. This puts a needless hurdle in people’s way and once again is not in keeping with the spirit of the legislation.

9. Some local authorities applied different thresholds when deciding what data would be too sensitive to reveal. For example, some authorities provided exact numbers lower than 5 and others simply indicated 5 or less. There didn’t seem to be any clear explanation for the variation (certainly not in relation to the population size in the local authority as some small LAs provided numbers under 5 whereas larger ones did not). This made data comparison tricky and we believe this highlights an inconsistency in applying the law which needs reviewed.
CONFUSING LABELLING & DECISIONS ON WHAT IS SENSITIVE

8. Sometimes councils provide classification labels on their responses to FoIRs but these can be confusing as they are not explained and the public therefore do not know the implications of them (if any). For example, the response I received to an FoIR from Argyll and Bute Council on 1st Dec 2018 (on the number of early entry to primary school requests and approval rates) labelled the request as OFFICIAL. However, the response I received to the exact same request from East Ayrshire Council on 27th Nov 2018 labelled it as “PUBLIC”. No explanation of either classification was given in these emails. Public seemed self-explanatory but official was less clear. I did not know if it indicated that there might be restrictions on the sharing of the information provided in the response for example. Regardless, there is inconsistency in the application of such labels as well as a lack of clarity on their significance to those receiving them. As these emails were sent to my private email address and not through the WDTK website, I am unable to provide weblinks but would be happy to supply the email threads on request.

9. In Fife Council’s response to a review request sent on 6/9/18 by one of the key members of the Give Them Time campaign, the Council’s response on 2/10/18 stated that, “This is subject to the material not being used in a derogatory manner”. If the information provided is shared accurately (which we agree it should be), we do not think it is fair for the Council to try to curtail the context of such accurate replication and we think this is an infringement on the right to freedom of speech. Such statements create fear and are not in keeping with the aim of transparency nor the spirit of the law.

LACK OF CLARITY AROUND RULES FOR SHARING FoIRs

10. Whether it is permitted for a requester to share the data provided in an FoI response can be unclear and even cause anxiety at times. A clear, tailored statement at the end of a response would help the public to understanding any restrictions on sharing the information provided. For example, this statement at the bottom of a response I received from West Dunbartonshire Council is confusing: “This information has been disclosed in terms of the Freedom of Information (Scotland) Act 2002. Information disclosed to you may be subject to copyright laws. By providing this information West Dunbartonshire Council does not waive copyright nor does it create or provide a right to publish, disclose, reproduce, re-use or alter this information without consent of those parties holding the copyright.” How does a typical member of the public know if the response is subject to copyright laws if they are not provided with a tailored re-use statement relating to their specific request?

11. Annexe 7 shows a different one from Renfrewshire Council sent on 29th March 2019: “This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed.” While I appreciate that this is probably a standard signature at the bottom of all Renfrewshire Council employees’ emails, it is unhelpful and can be misleading when included at the foot of an FoIR response.
RECOMMENDATIONS FOR CHANGE

1. All councils should follow the example of Moray Council and publish their responses to FoIRs on their websites (see this link: moray.gov.uk/moray_standard/page_62338.html) or at the very least provide the requester with a clear statement in plain English on how the information provided in that specific FoI response can and cannot be used/shared e.g. explain what an “attribution statement” is as this is legalese and not everyone understands this jargon. They should also, in plain English, advise of any restrictions on sharing the information provided e.g. “This information is provided for you alone. Sharing this information is not allowed due to copyright law”.

2. There should be one commissioner, not two, or the departments should be merged so that when a member of the public enquires to one of them, they do not need to make a separate call to the other if the first is unable to respond as the enquiry does not fall within their remit.

3. All local authorities should use the same standard email address to collect FoI requests e.g. foi@whatevercouncil.gov.uk.

4. Local authorities should not use a standard confidentiality signature at the foot of emails which are responses to FoI requests as these can be confusing (see point 11).

5. There should be more stringent mechanisms/reminders in place to alert local authorities when they are nearing the 20 working day deadline for responding to an FoIR.

6. Councils should clearly explain the significance of any classification label given to an FoIR (see point 8).
Dear Fife Council,

1. Please could you provide the percentage of discretionary deferral requests which the local authority has provided an extra year of early learning and childcare funding for since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

2. Please could you also provide the total number of applications for discretionary deferral funding received and the total number successful for each year since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

Yours faithfully,

Patricia Anderson

Fife Council 12 December 2018

Dear Patricia Anderson

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 – REQUEST FOR INFORMATION

Thank you for your information request received on 11/12/2018 09:58 our ref: 25047. This is being dealt with in terms of the Freedom of Information (Scotland) Act 2002.

We are presently assessing your request and may be in touch soon to ask for further clarification or to offer advice and assistance if we are not able to fulfil your request in its present form.

The legislation allows us up to 20 working days from the date that we receive a valid request, including any clarification we require, to make a final response. We will be in touch within 20 working days of receipt of your initial request to provide our response or to seek clarification where necessary. We hope to provide you with the information you are looking for at an earlier date where possible.

Yours sincerely,

Information Officer
Dear Patricia Anderson,

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 – REQUEST FOR INFORMATION

I refer to your email dated and received 11/12/2018 09:58, our ref 25047.

I am pleased to enclose the information you requested and trust that it meets your requirements.

*information request*

1. Please could you provide the percentage of discretionary deferral requests which the local authority has provided an extra year of early learning and childcare funding for since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

   Fife Council does not hold this information in terms of Section 17 – No information held. Fife Council do not operate discretionary referrals.

2. Please could you also provide the total number of applications for discretionary deferral funding received and the total number successful for each year since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

   Fife Council does not hold this information in terms of Section 17 – no information held.

If you are not satisfied with the way we have handled your request, you have the right to request a review of the decision. Please write to: Head of Legal Services, Finance & Corporate Services, Fife House, North Street, Glenrothes, KY7 5LT or e-mail to [email address]. The law provides for you to make this request up to 60 working days from when we received your enquiry or 40 working days from when you receive this correspondence whichever is the later date. Where the outcome of the review fails to resolve the matter to your complete satisfaction you have the right to apply to the Scottish Information Commissioner for a decision.itspublicknowledge.info/Appeal

Fife Council will consider and seek to resolve any request to the Head of Legal Services that falls outside these time scales.
Dear Thank you for your reply.

Please could you clarify what you mean by "Fife Council do not operate discretionary referrals". My understanding is that under the Standards in Scotland's Schools Etc Act 2000 - section 34: Guidance on Pre-School Education, Fife Council has an obligation to consider requests for discretionary continued early learning and childcare funding when parents/carers request it for children who will turn five between the school commencement date and the end of Dec in the year they first could start school.

Section 3.8 states "Authorities will retain their discretion over the provision of additional pre-school education for such children... In reaching decisions on whether or not deferred entry into primary school is appropriate for these children, authorities should follow the guidance issued by ADES on the exercise of their discretion".

Yours sincerely,

Patricia Anderson

Dear Ms Anderson

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 - REQUEST FOR REVIEW
I refer to your e-mail to dated and received on 14 January 2019 which has been taken as a request to review the Council’s response dated 7 January 2019.

Your e-mail has been passed to the Head of Legal Services for review.

A response will be sent to you within 20 working days of receipt of your e-mail.

If you are dissatisfied with the Councils response to your request for a review, you have the right to make an application to the Scottish Information Commissioner in terms of Section 47(1) of the Freedom of Information (Scotland) Act. Any such application must be made before the expiry of the 6 months after the date of receipt of our review letter and
should be sent to the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9D or online at [1]itspublicknowledge.info/Appeal.

Yours sincerely

Info Review Contact

for Head of Legal Services

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Fife Council 11 February 2019

Review Response FOI 08.19.pdf

Dear Patricia Anderson

Please find attached the response to your request for a review which I have signed in the absence of Head of Legal Services.

Yours sincerely

On behalf of Head of Legal Services

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Dear Patricia Anderson

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 ("the Act")
REQUEST FOR REVIEW – REF Q6.1.1/FCIR: 25047 R08.19

I refer to your email dated and received on 14 January 2019 requesting a review of your information request. This has been passed to me for attention.

I note that on 11 December 2018, you made the following request for information:

"1. Please could you provide the percentage of discretionary deferral requests which the local authority has provided an extra year of early learning and childcare funding for since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.
2. Please could you also provide the total number of applications for discretionary deferral funding received and the total number successful for each year since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding."

By email dated 7 January 2019, the Council provided the following responses (following the numbering above):

1. Fife Council does not hold this information in terms of Section 17 – No information held. Fife Council do not operate discretionary referrals.
2. Fife Council does not hold this information in terms of Section 17 – no information held.

Head of Legal Services
Legal Services
Fife House, North Street, Glenrothes, Fife. KY7 5LT
DX 561502, Glenrothes-3
In your request for review dated 11 January 2019, you asked for clarification of the response to question 1.

I have asked the relevant to service to carry out an additional search to assist with review and they have confirmed that the Council does in fact operate discretionary deferrals. Please accept my apologies that the initial response was incorrect. This was due to an error on the part of the relevant service.

The service advises that the total number of accepted discretionary deferral requests since 2013 are as follows: -

Session 2018/19 – 57 Discretionary
Session 2017/18 – 55 Discretionary
Session 2016/17 – 58 Discretionary
Session 2015/16 – 58 Discretionary
Session 2014/15 – 50 Discretionary
Session 2013/14 – 49 Discretionary

Unfortunately, the service advises that they do not hold the total number of nursery pupils that were in nursery at the time the deferrals were made for each year. Therefore, they are unable to express this as a percentage. In addition, they do not hold the total number of applications for deferral made for each year. Therefore, I must notify you in terms of Section 17 of the Act that there is no information held for these parts of your request.

I hope this is of assistance to you.

If you are dissatisfied with the Council’s response to your request for a review in terms of the Act, you have the right to make an application to the Scottish Information Commissioner in terms of Section 47 of the Act. Any such application must be made before the expiry of six months after the date of receipt of this letter and should be sent to the Scottish Information Commissioner, Kinburn Castle, Doubledeykes Road, St Andrews, Fife KY16 9DS or you can appeal online at itspublicknowledge.info/Appeal. You also have the right of appeal to the Court of Session (on a point of law only) if dissatisfied with a decision issued by the Commissioner.

Yours sincerely

Head of Legal Services
Dear Patricia Anderson

The service has explained that subsequent to your request it was asked by elected members to provide detail on the number of discretionary deferrals and the number of those refused. The deferral numbers provided to elected members were the same as those provided to you. In addition, the service provided the statement below to elected members:

“I have looked into the numbers of Sept-Dec birthdays being refused the additional year of nursery provision. In the timescale, I have found evidence of no more than 5 per year. This is likely to reflect the discussions that take place between parents and staff working with the child about how best to meet each individual’s needs.”

The service advises that this was a ‘best guess’ through discussion with relevant staff.

In terms of the Freedom of Information (Scotland) Act 2002 (“the Act”) the Council is only obliged to provide the information held at the time of the request and within the scope of the request. It is not obliged to create information or provide estimates in response to a request. This is confirmed in paragraph 9.9.1 of the Scottish Ministers’ statutory code of practice on freedom of information requests (known as the Section 60 Code) which is available at the web link below: -


However, the service advises that when Elected Members ask for information they will try to give an indication or ‘best guess’ as has happened here.

Accordingly, I can confirm that there has been no error in the Council’s review response and I hope this alleviates your concerns in that regard.

Yours sincerely

Solicitor

On behalf of

Head of Legal & Democratic Services
Dear Highland Council,

1. Please could you provide the percentage of discretionary deferral requests which the local authority has provided an extra year of early learning and childcare funding for since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

2. Please could you also provide the total number of applications for discretionary deferral funding received and the total number successful for each year since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

Yours faithfully,

Patricia Anderson
Dear Patricia Anderson,

Thank you for your reply, however, it seems inconsistent with the answers provided to questions 1 and 2 in a similar Freedom of Information request which Highland Council responded to on 12/8/18 (ref: CRM HC0226-3816). In that response, under the table providing the total number of deferrals each year it stated that "These numbers are largely made up of children who have birthdays that fall in November-March and parents have therefore requested an additional year as they feel their child is too young to be enrolled for school. In such situations, parents do not need formal approval from the Council, as enrolment in school is at their discretion for this age group. In all such cases the Council would approve and support the additional year in nursery."

It also stated that, "All requests to defer a further year were agreed."

1. Are you able to confirm that all requests for continued nursery funding for mid-Aug to end of Dec born children (those still aged 4 at the school commencement date) being deferred were granted by Highland Council from 2013 onwards?

2. Is it the case as quoted above that "In all such cases the Council would approve and support the additional year in nursery" or does the "Recommended procedure for possible deferred entry" you provided in your response apply?

Yours sincerely,

Patricia Anderson
I did both responses and so hopefully can clarify the situation.

We don’t centrally collect the information on the ages or specific situations for all children where there has been a request for deferral. In large part, those children who are young for their age eg may only be 4 in the January/February of the calendar year in which they would be entitled to commence school. The parents of those who are slightly older (Nov/Dec birthdays), will often have conversations with the senior managers of the early years settings and a decision will be made regarding an additional preschool year, if this is in the best interests of the child. Those pupils who are already 5, or will be 5 shortly after the start of term and who have significant additional support needs, may have an agreed additional preschool year, if this is in their best interests and on the recommendation of specialist services eg educational psychology.

There are very few pupils aged 5 between August-December, for whom parents request an additional preschool year, where there are not recognised additional needs. HOWEVER, we do not collate this information and report on it centrally. When you made your original FOI request, I asked a number of managers whether this was the case. The managers I spoke to had not refused any parental requests for additional years, although in general, our recommendation is that pupils begin school alongside their age peers and so the numbers of pupils from August to November where this was the case were very small.

What your FOI has done is set our data team a challenge, so that in the future, we can hopefully be clearer about the dates of birth of ALL pupils who have an additional preschool year.

Head of Additional Support Services
Good afternoon,

REQUEST FOR INFORMATION UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your request for information regarding school deferral rates. Your requests, and our responses, are below.

1. Please could you provide the percentage of discretionary deferral requests which the local authority has provided an extra year of early learning and childcare funding for since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

This data is not collated centrally and therefore the amount of resource required to provide the response would exceed the fees threshold (£600). Section 12 of the Act states that, where the cost of provision of information exceeds the fees threshold (£600), public authorities are not obliged to comply with a request. As it would be unreasonable under the act to compile this information we are unable to provide you with the data you requested.

We do keep yearly totals of deferrals which have been included below.

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<thead>
<tr>
<th>Year</th>
<th>Total Deferral</th>
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<tbody>
<tr>
<td>2012-13</td>
<td>310</td>
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<td>2013-14</td>
<td>312</td>
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<td>2014-15</td>
<td>328</td>
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<tr>
<td>2015-16</td>
<td>334</td>
</tr>
<tr>
<td>2016-17</td>
<td>327</td>
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<tr>
<td>2017-18</td>
<td>334</td>
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</tbody>
</table>

2. Please could you also provide the total number of applications for discretionary deferral funding received and the total number successful for each year since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

This data is not collated centrally and therefore the amount of resource required to provide the response would exceed the fees threshold (£600). Section 12 of the Act states that, where the cost of provision of information exceeds the fees threshold (£600), public authorities are not obliged to comply with a request. As it would be unreasonable under the act to compile this information we are unable to provide you with the data you requested.
We can provide you with the criteria we use for determining whether a pupil will be granted discretionary deferral funding:

**Recommended procedure for possible deferred entry**

- If the issue is raised, the reasons for possible deferral should be discussed with parents throughout the year and before enrolment.

- Parents unsure about deferred entry should meet with senior staff in their settings and receiving primary school. Nursery staff, the Link Health Visitor and any other relevant people will be consulted to contribute their professional opinion based on their observations of the child’s development.

- The indicators, which will influence the decision, should be recorded in the child’s records. This will be used to support requests for an additional funded year and to provide the focus for learning and teaching in that year.

- If a final decision on deferral has not been made by enrolment time, parents should enrol the child in both Early Learning and Childcare and Primary 1. This allows staff and parents to continue to monitor the child’s development and maturity.

Under Section 20 of the Freedom of Information (Scotland) Act 2002, you have the right to request that the Highland Council reviews any aspect of how it has dealt with your request. This requirement for review should be put in writing to the Freedom of Information Officer, Chief Executive’s Office, Glenurquhart Road, Inverness IV3 5NX, within 40 working days of receipt of this letter. The request should include details of the information requested and the aspects of the Highland Council’s response which you are not satisfied with.

If you are subsequently dissatisfied with the outcome of the Council’s review, you have the right to appeal to the Scottish Information Commissioner under Section 47 of the Act, within six months of receiving the Council’s review response.

Further guidance on information request reviews and right to appeal can be found on the Scottish Information Commissioner website at [www.itsonlypublicknowledge.info](http://www.itsonlypublicknowledge.info).

Yours sincerely,

Additional Support Needs Manager
Dear Renfrewshire Council,

1. Please could you provide the percentage of discretionary deferral requests which the local authority has provided an extra year of early learning and childcare funding for since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

2. Please could you also provide the total number of applications for discretionary deferral funding received and the total number successful for each year since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

Yours faithfully,

Patricia Anderson

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Dear Ms Anderson,

Freedom of Information Application - Acknowledgement - IG181732

Thank you for your enquiry, received by the Council on 13/12/2018

I am writing to inform you that your application for information is being dealt with under the provisions of the Freedom of Information (Scotland) Act, 2002. Section 10(1) of the Act stipulates that enquiries must be dealt with within twenty working days of receipt. However, we will endeavour to answer your enquiry as soon as possible.

Regards

Renfrewshire Council 9 January 2019

2 Attachments

Patricia Anderson Response.pdf
Dear Ms Anderson

Please find below a response from Renfrewshire Council to your recent Freedom of Information Request. [A copy of the letter can be found at the end of this Annexe].

Senior Clerical Officer (Employee Services)
Customer & Business Services

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Patricia Anderson 9 January 2019

Dear

Thank you for your reply, however, the numbers seem quite high. Can you confirm that the data provided only includes children granted a further year of funded nursery by the local authority who were discretionary deferrals (mid-Aug to end of Dec birthdays - children born after the school commencement date in Aug each year with a legal entitlement to deferral but no automatic entitlement to continued early learning and childcare funding from the local authority) and not include children born in January or February who are automatically entitled to the continued nursery funding?

Yours sincerely,

Patricia Anderson

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Patricia Anderson 5 February 2019

Dear

I would be grateful if you could update me on when I will receive an answer to the question I raised on 9/1/19 in relation to the Council’s response to my FoI request on discretionary deferral numbers.

Yours sincerely,

Patricia Anderson

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Renfrewshire Council 11 February 2019

Dear Ms Anderson

Sorry for the delay. I have reminded the concerned Manager. I will get back to you soon.
Dear Ms Anderson,

The revised deferral figures are given below:

Before December birthday's (EST's Only):

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<tr>
<td>46</td>
<td>29</td>
<td>48</td>
<td>43</td>
<td>62</td>
<td>57</td>
<td>285</td>
<td></td>
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</tbody>
</table>

You will note that the deferral figures provided to you at this time are lower than the original set of figures provided. This is due to deferral numbers previously provided included children from out with the birth periods requested. Apologies.

Regards

Finance and Resources

Stakeholder Liaison Team
Dear Ms Anderson

Further to your request dated 13 December 2018, please find below a response to the questions you have asked.

1. Please could you provide the percentage of discretionary deferral requests which the local authority has provided an extra year of early learning and childcare funding for since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

Following are the deferral requests received for during the period from 2013/14 to 2018/19.

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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>47</td>
<td>42</td>
<td>64</td>
<td>62</td>
<td>74</td>
<td>74</td>
<td>363</td>
</tr>
</tbody>
</table>

2. Please could you also provide the total number of applications for discretionary deferral funding received and the total number successful for each year since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

All applications were successful. We did not refuse any deferral applications in any of the above mentioned years.

Review procedure

If you are dissatisfied with the way in which the Council has dealt with your request, you are entitled to require the Council to review its decision. A copy of the Council’s review procedure is detailed at Appendix 1.
If you have any further queries about this process, please do not hesitate to get in touch.

Yours sincerely

Acting Head of Service (Early Years & Broad General Education)

Enc:
Dear FOI_CCT,

In your response to a separate FoI I received on 18th April 2019 (whatdotheyknow.com/request/a...), I was informed that the data provided in this response on the number of total successful applications per year from 2013-2018 was actually incorrect. I was provided with the updated correct data. However, I was not provided with any update on the total number of applications Glasgow City Council received in each of these years. Can you confirm therefore that the data provided in this response on the total number of applications received in each of these years is 100% accurate?

Yours sincerely,

Patricia Anderson

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FOI Reviews, Glasgow City Council 7 May 2019

Dear Ms Anderson,

We acknowledge receipt of your email on 5 May 2019. Your query is being reviewed and we will notify you of the outcome as soon as possible.

Regards,

FOI Review Team

Glasgow City Council

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FOI Reviews, Glasgow City Council 10 May 2019

Dear Ms Anderson

Thank you for your email of 5 May 2019. We note that you are seeking clarification as to whether the total number of discretionary deferral applications received by Glasgow City Council (“the Council”) for the period 2013/14 - 2018/19 was detailed accurately in the Council’s response to your first request for information dated 11 December 2018.

We can confirm that this information has been found to be inaccurate. The Council apologises that this was not made clear to you as part of its review response in respect of your second request for information dated 22 March 2019, in which accurate information on the number of successful applications was provided.
Please find the correct total number of discretionary deferral applications received by the Council, for the period specified, in the table below along with the breakdown of successful applications.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total number of applications received</th>
<th>Number of successful applications</th>
<th>Percentage of successful applications</th>
<th>Number of successful applications (Local Authority)</th>
<th>Number of successful applications (Partnership)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/14</td>
<td>105</td>
<td>99</td>
<td>94.3%</td>
<td>88</td>
<td>11</td>
</tr>
<tr>
<td>2014/15</td>
<td>96</td>
<td>79</td>
<td>82.3%</td>
<td>77</td>
<td>2</td>
</tr>
<tr>
<td>2015/16</td>
<td>69</td>
<td>64</td>
<td>92.8%</td>
<td>57</td>
<td>7</td>
</tr>
<tr>
<td>2016/17</td>
<td>64</td>
<td>57</td>
<td>89.1%</td>
<td>46</td>
<td>11</td>
</tr>
<tr>
<td>2017/18</td>
<td>72</td>
<td>72</td>
<td>100%</td>
<td>57</td>
<td>15</td>
</tr>
<tr>
<td>2018/19</td>
<td>83</td>
<td>83</td>
<td>100%</td>
<td>68</td>
<td>15</td>
</tr>
</tbody>
</table>

We trust this information is of assistance. However, you still have the right to make an appeal to the Scottish Information Commissioner. Details on how to make an appeal are set out in your review letter dated 18 April 2019.

Regards

FOI Review Team

Glasgow City Council
The request was **partially successful**.

Patricia Anderson  **16 February 2019**

Dear Glasgow City Council,

Please accept this email as a Freedom of Information request.

In relation to the data provided in the Council’s response to my Dec 2018 FoI request regarding discretionary deferral rates, please could you provide the total number of discretionary funded places for each year from 2013-2014 to 2018-2019 inclusive which were funded at:

a) one of the Council’s own nurseries (early learning and childcare centres)  
b) a private or voluntary partnership provider

Yours faithfully,

Patricia Anderson

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Customer Care Centre, Glasgow City Council  **16 February 2019**

New Service Request was submitted: RQST00006873844  
You can simply reply to this Email, and your reply  
will automatically be associated with this Service Request

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FOL_CCT, Glasgow City Council  **11 March 2019**

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**OFFICIAL**

Dear Ms Anderson

Thank you for your request received on 17 February 2019 requesting information under the Freedom of Information Act.

Please find attached your response.
Yours sincerely

Information & Data Protection

Chief Executive’s Department

Patricia Anderson 22 March 2019

Dear FOI_CCT,

Thank you for your FOI response. However, the low numbers provided are inconsistent with the much higher numbers provided by your response on 11/1/19 to my 11/12/18 request which can be seen here: (whatdotheyknow.com/request/a...)

Could this be looked into again?

Yours sincerely,

Patricia Anderson

FOI Reviews, Glasgow City Council 22 March 2019

Dear Ms Anderson,

I refer to your request for a formal review of the decision made in connection with your Freedom of Information Request and attach herewith acknowledgement letter for your information.

Regards,

FOI Review Team

Glasgow City Council
Dear Ms Anderson

On behalf of , Director of Governance and Solicitor to the Council, please find attached Glasgow City Council's response to your request for review of your information request.

Regards,

FOI Review Team

Glasgow City Council
REQUEST FOR REVIEW UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 ("THE ACT")

Thank you for your email of 22 March 2019 requesting a review of the response by Glasgow City Council ("the Council") to your request for information under the Act.

YOUR REQUEST

You submitted a request on 17 February 2019 for the following information:

"In relation to the data provided in the Council’s response to my Dec 2018 FOI request regarding discretionary deferral rates, please could you provide the total number of discretionary funded places for each year from 2013-2014 to 2018-2019 inclusive which were funded at:

a) One of the Council’s own nurseries (early learning and childcare centres)
b) A private or voluntary partnership provider"

THE DECISION

The Council emailed you on 11 March 2019 and provided you with a response to your request for information. The Council provided information in response to parts a and b of your request.

YOUR REQUEST FOR REVIEW

On 22 March 2019 you emailed the Council requesting a formal review of the decision. Your review request was as follows:

"Thank you for your FOI response. However, the low numbers provided are inconsistent with the much higher numbers provided by your response on 11/1/19 to my 11/12/18 request which can be seen here: whatdotheyknow.com/request/a...

Could this be looked into again?"
THE REVIEW DECISION

I have carried out a full and impartial review of the initial response provided to you.

In your request for information dated 11 December 2018 (the “first request”), you had requested information in relation to the total number of discretionary deferral applications deemed successful by the Council per year for the period 2013/14–2018/19. This involved considering applications received from 110 Council nurseries and 123 partnership nurseries (233 nurseries in total). The Council provided you with this information based on the records it held at the time the request was made.

Based on the wording of your request for information dated 17 February 2019 (the “second request”), this was interpreted as being a request for information in relation to the total number of successful discretionary deferral applications for the same period which were at one of the Council’s nurseries and a private or voluntary partnership provider.

Therefore, while in response to your first request a total of 233 nurseries were considered, in response to your second request, only one Council nursery and one partnership nursery was considered. It is for this reason that there was a difference in the totals for each response.

I am of the opinion that your second request was misinterpreted and believe that you were seeking a breakdown of the number of successful applications into two further categories: number of successful applications at Council nurseries; and number of successful applications at partnership nurseries.

On this basis, as part of my review, I have reviewed the total number of successful discretionary deferrals at all of the Council’s nurseries and all partnership nurseries in the period specified. In doing so, it has become apparent that there was an inaccuracy in the information which was held in the spreadsheets containing the number of successful discretionary deferral applications at the time the Council prepared its response to your first request.

The information you were given in response to your first request of 11 December 2018, that is the total number of successful discretionary deferral applications across all Council nurseries and partnership nurseries, was detailed as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Successful Applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/14</td>
<td>178</td>
</tr>
<tr>
<td>2014/15</td>
<td>79</td>
</tr>
<tr>
<td>2015/16</td>
<td>163</td>
</tr>
<tr>
<td>2016/17</td>
<td>57</td>
</tr>
<tr>
<td>2017/18</td>
<td>7</td>
</tr>
<tr>
<td>2018/19</td>
<td>74</td>
</tr>
</tbody>
</table>

Please see the table below with the revised and accurate total number of successful discretionary deferral applications (these are listed in the final column of the table). The table also provides a breakdown of successful applications at all Council nurseries and all partnership nurseries for the period 2013/14-2018/19 which I believe is what you were asking for as part of your second request. These figures have been confirmed to me by the Council’s Early Learning & Childcare department to be accurate.

<table>
<thead>
<tr>
<th>Year</th>
<th>Local Authority</th>
<th>Partnership</th>
<th>Total Successful Applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/14</td>
<td>88</td>
<td>11</td>
<td>99</td>
</tr>
<tr>
<td>2014/15</td>
<td>77</td>
<td>2</td>
<td>79</td>
</tr>
<tr>
<td>2015/16</td>
<td>57</td>
<td>7</td>
<td>64</td>
</tr>
<tr>
<td>2016/17</td>
<td>46</td>
<td>11</td>
<td>57</td>
</tr>
</tbody>
</table>
RIGHT OF APPEAL

I hope you are satisfied with this response. However, if you are not you have the right to make an application within six months of receipt of this letter for a decision by the Scottish Information Commissioner. The Scottish Information Commissioner can be contacted as follows:

Address: Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS.
Email: enquiries@itspublicknowledge.info
Telephone: 01334 464610

You can also use the Scottish Information Commissioner's online appeal service to make an application for a decision: itspublicknowledge.info/appeal

Thereafter a decision by Scottish Information Commissioner may be appealed on a point of law to the Court of Session.

Yours sincerely

DIRECTOR OF GOVERNANCE AND SOLICITOR TO THE COUNCIL
Inverclyde Council 29 January 2019

Good Morning Ms Anderson

I refer to your Freedom of Information request below. We have been alerted to the fact that there was an error in the figures that were sent to you in the FOI response. I append below the correct information.

1. 2013/14 - 17.39%
   2014/15 - None
   2015/16 - 22%
   2016/17 - 14%
   2017/18 - <5
   2019/19 - 18.96%

Total Number of Defer Entries Successful applications (Aug-Dec Birthday)

2. 2013/14 46 8
   2014/15 41 None
   2015/16 50 11
   2016/17 50 7
   2017/18 40 <5
   2018/19 58 11

Please accept our apologies for this error.

Best wishes

SEEMIS Development Officer
Good Morning

I refer to your e-mail regarding further information on deferred entries and a breakdown of the figures. I trust that you find the undernoted and attached helpful.

3. Data on the reasons for rejection and/or approval of Primary School deferment applications from 2013-18

<table>
<thead>
<tr>
<th>Year</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>5</td>
<td>&lt;5</td>
</tr>
<tr>
<td>2014</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2015</td>
<td>9</td>
<td>&lt;5</td>
</tr>
<tr>
<td>2016</td>
<td>&lt;5</td>
<td>5</td>
</tr>
<tr>
<td>2017</td>
<td>&lt;5</td>
<td>0</td>
</tr>
<tr>
<td>2018</td>
<td>9</td>
<td>&lt;5</td>
</tr>
</tbody>
</table>

Pupils deferred further to decision made at Additional Support Needs Monitoring Forum

Pupils with a January/February Birthday must complete the attached booklet but our Additional Support Needs Monitoring Forum can agree to defer pupils with additional support needs whose birth dates fall outwith January/February.

Regarding clarification on the undernoted, there have been no unsuccessful applications. When considering these applications, it should be noted that funding, which is met from Inverclyde Council for additional early years, is not a deciding factor.

I understand from the data below that the total numbers of primary school deferment applications made from 2013 - 2018 was 285 and that all 285 applications were successful. I am unsure about the data provided in question 3. If all 285 applications were successful then are the statistics for question 3 reflective of reasons for approval for deferment? Could you clarify this?

I have also attached our Admission's Policy.

Please find attached a copy of our review procedures, should you require them.

Best wishes, Education Services HQ, Inverclyde Council
Thank you so much for providing this information for me.

I wonder if you could help me with a further query?

I see that you have provided the data from March - February. My specific interest and required information is for children who have a mid August to December birthday. I don't need information on January/February birthdays as I understand that these children have automatic right to deferment.

My interest relates to those children where an application for additional funding has been made to the Local Authority to fund another year at Nursery. This application would be from children who have a birthday from mid August to the end of December (where they would be starting school at age 4 years without the deferment). The deferment process therefore relates to the Local Authority making a decision to authorise the additional funding for an extra year at nursery which means the child would start school at age 5 years.

It is possible to provide just this information - remove data on the Jan/Feb birthdays?

I understand from the data below that the total numbers of primary school deferment applications made from 2013 - 2018 was 285 and that all 285 applications were successful. I am unsure about the data provided in question 3. If all 285 applications were successful then are the statistics for question 3 reflective of reasons for approval for deferment? Could you clarify this?

I have made this FOI request to every local authority in Scotland. Other Local Authorities have been able to separate the information for each individual year from 2013 to 2018. This would be really helpful because then I am able to see if there are any patterns of this five-year period.

I would be grateful if you could also attach the Council's Deferred entry procedures.

Thank you for your help.

Kind Regards
On 23 Jul 2018, at 14:38, Inverclyde Council wrote:

Good Afternoon

I refer to your Freedom of Information request and trust that the undernoted is helpful to you.

I would like access to the following information from the Local Authority:

   - Male – 182
   - Female - 103

2. Data on the number of Primary School Deferment applications that we successful from 2013 -2018.
   - Male - 182
   - Female – 103

3. Data on the reasons for rejection and/or approval of Primary School deferment applications from 2013 - 2018.
   a) Male – 147 (Pupil has January/February birthday) & Male – 35 – Additional Support Needs
   b) Female – 88 (Pupil has January/February birthday) & Female 15 – Additional Support Needs

4. Data on the criteria applied in decision-making regarding Primary School deferment processes from 2013 - 2018. Please include any guidance/ protocols/ procedures used in this process.

   Inverclyde Policy on Admissions and Pupil Placement in Mainstream Schools Revised January 2017

5. Data on the number of appeals on decision-making regarding deferment applications from 2013 - 2018.

   None


   None
7. Data on children withdrawn from Primary one and reasons for this, for these children were deferment applications made?

None

Please note that I refer to the definition of Deferral to be the request to the Council for an additional year’s funding for Nursery.

Can the data be separated for gender and birth month (August – December)? The information provided is for pupils with birth dates between March and February to include pupils with January or February birth dates which are the majority of our deferred entries.

Please find attached a copy of our review procedures, should you require them.

Best wishes

Education Services HQ

Inverclyde Council
Dear West Dunbartonshire Council,

1. Please could you provide the percentage of discretionary deferral requests which the local authority has provided an extra year of early learning and childcare funding for since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

2. Please could you also provide the total number of applications for discretionary deferral funding received and the total number successful for each year since 2013. Please only include those children born on or after the school commencement date in August and 31 Dec who were granted an extra year of funding.

Yours faithfully,

Patricia Anderson

West Dunbartonshire Council 12 December 2018

Dear Sir/Madam

This is to acknowledge receipt of your request for information which was received by West Dunbartonshire Council on 12/12/2018.

I have passed it to the relevant department to consider and respond.

West Dunbartonshire Council will respond within 20 working days of receipt, by 13/01/2019.

I also attach a copy of West Dunbartonshire Council current Freedom of Information charging regime for your information.
Patricia Anderson 16 January 2019

Dear

I am writing to request an internal review as I have not received a response to the Freedom of Information request I submitted which you confirmed receipt of on 12 Dec 2018 and the statutory 20 working days for responding has now passed.

You can see the original requests here at the What Do They Know website: (whatdotheyknow.com/request/a...)

Yours sincerely,

Patricia Anderson

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18 January 2019

Good Morning Ms. Anderson,

We are currently investigating with the department concerned why you have not received a response.

We will come back to you as soon as we can.

Kind Regards,

Freedom of Information Officer

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Patricia Anderson 5 February 2019

Dear

I would be grateful if you could update me on when I will receive a response to the Freedom of Information request I submitted on 12 Dec 2018.

Yours sincerely,

Patricia Anderson

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West Dunbartonshire Council 6 February 2019
Good Morning Ms. Anderson,

Please find attached a copy of the e-mail I sent to yourself on the 30th of January 2019.

Kind Regards,

Freedom of Information Officer

Patricia Anderson 6 February 2019

Dear

Thank you for your reply but the information you have forwarded was the Council’s response to a different Freedom of Information request I had submitted on early entry data as opposed to discretionary deferral numbers. I am looking for the Council’s response to the request I sent on 12th Dec 2018 which can be viewed here: whatdotheyknow.com/request/d...

Yours sincerely,

Patricia Anderson

West Dunbartonshire Council, 6 February 2019

Good Morning Ms. Anderson,
I have contacted the department concerned again and asked that your non-response be treated as a matter of urgency.

Kind Regards,

Freedom of Information Officer

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**Patricia Anderson** left an annotation (15 February 2019)

Appeal sent to the Information Commissioner on 15/2/19.

West Dunbartonshire Council 12 March 2019

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Hi Patricia

Please find attached copy of the response to your FOI request.

I had originally sent the response on 21\(^{st}\) December 2018.

Would you be able to confirm receipt of this email please?

Regards

Team Leader

Corporate Administration Support (CAS)

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**Patricia Anderson** 12 March 2019
Dear

Thank you for your email. I will now indicate on the What Do They Know website that I have received all information requested from West Dunbartonshire Council. I don't know what happened on 21st December 2018 but as you can see from the email thread at the link below, no email containing your FoI response was received on that date or at all before today.

whatdotheyknow.com/request/d...

Yours sincerely,

Patricia Anderson
Renfrewshire Council 29 March 2019

Renfrewshire Council would like to recall the message, "Freedom of Information request - Response."

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. Renfrewshire Council may, in accordance with the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, intercept e-mail messages for the purpose of monitoring or keeping a record of communications on the Council's system. If a message contains inappropriate dialogue it will automatically be intercepted by the Council's Internal Audit section who will decide whether or not the e-mail should be onwardly transmitted to the intended recipient(s).