



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Report on the implementation of open government legislation and policies during 2007

April 2008

Introduction

This is the second report which the Assembly Government has published on its implementation of open government legislation and policies. The Assembly Government has during 2007 continued to recognise the importance of openness in government and to routinely publish as much information as possible through its Publication Scheme.¹

To reconfirm its commitment to openness, the Assembly Government implemented a new Code of Practice on Access to Information in November 2007. The new Code establishes an on-going commitment to creating greater openness through the substantial harm test which it establishes and applies to the majority of exemptions to the requirement to release information which are subject to the public interest test in law. To support the implementation of this new Code, new guidance for staff handling requests for recorded information² was implemented which embeds lessons learnt from experience and consolidates previous pieces of guidance into one more user-friendly document. A new staff training module has also been developed and our Community of Practice³ has continued to be an important forum for sharing experiences and knowledge.

Although the Assembly Government received fewer requests for information in 2007 than it did in the previous years following the commencement of the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIRs), interest in requesting information from the Assembly Government has remained high. The number of requests handled under the Data Protection Act 1998 has continued to be about the same.

As was explained in the Assembly Government's previous report covering 2005 and 2006, the FOIA and EIRs require the Assembly Government in the vast

¹ Details of the Assembly Government's Publication Scheme can be viewed at:

<http://new.wales.gov.uk/publications/?lang=en>

² The Assembly Government publishes its Code of Practice on Access to Information and all of its guidance on handling requests for recorded information at:

<http://new.wales.gov.uk/publications/accessinfo/?lang=en>

³ A Community of Practice is a group of people which meets to share what they know and to learn from each other.

majority of cases⁴ to either release information or explain why information is considered to be exempt from release within 20 working days of a request being received.

This report describes experiences during 2007. As before, this report does not cover requests received by other public authorities in Wales as access to information legislation is not a devolved matter and it would, therefore, be outside of the Assembly Government's remit to collect detailed information from other public authorities.

The information in this report relates only to those requests which have been received by the Assembly Government and logged by the Access to Information Unit. As a result, some data may not be complete and the report should be seen only as an indication of the Assembly Government's experiences and performance.

Summary

The Assembly Government received 574 requests for information in 2007, compared with 677 in 2006. The number of requests fluctuated throughout the year.

Those work areas which have received relatively high volumes of requests have experienced some challenges but the Assembly Government is pleased that, overall, it managed to deal with a significantly larger proportion of requests within statutory timescales. As in previous years deadlines have not been met in some cases because the Assembly Government has been committed to applying exemptions to the smallest amount of information possible and has processed very large requests which the legislation would have allowed us to refuse or charge for.

The Assembly Government received a total of 35 complaints in 2007,

⁴ The FOIA and EIRs set a standard deadline of 20 working days for responding to requests for information. The FOIA allows for a reasonable extension to the 20 working day deadline when a public interest tested exemption is being considered and the EIRs allow for an extension of a maximum of a further 20 working days if the request is complex and voluminous.

compared with 36 in 2006, relating to its handling of requests for information, most of which have been resolved internally to the satisfaction of complainants. The Assembly Government is aware that the Information Commissioner's Office has investigated only one complaint in 2007 which is lower than in 2005 and 2006 when it investigated 12 complaints over the two years.

The Assembly Government also continued to routinely published a considerable amount of information during 2007 in line with its Publication Scheme.

Number of requests, their sources and subject areas

The number of requests which the Assembly Government received during 2007 was slightly lower than in 2006, with a steady flow of requests being submitted which varied in number each month. It was again noticeable that the volumes increased when there was media and political interest in issues and decreased during some holiday periods. Figure 1 shows the number of requests received each month during 2007 and Annex 1 provides the same information in a table.

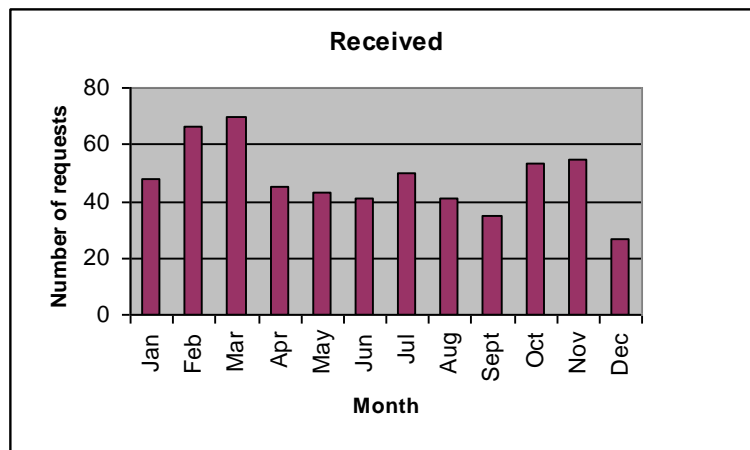


Figure 1: Requests received each month during 2007

The vast majority of requests (around 80%) in each quarter of 2007 were from members of the public. A larger proportion (10%) of requests was from

Assembly Members in the first quarter of 2007, compared with the other quarters when the proportion from Assembly Members reduced to an average of less than 4%. The proportion from the media remained fairly consistent throughout the year at 10-15% of all requests. Figure 2 shows the number of requests received from each type of requester during each quarter of 2007, and Annex 2 provides the same information in tabular form.

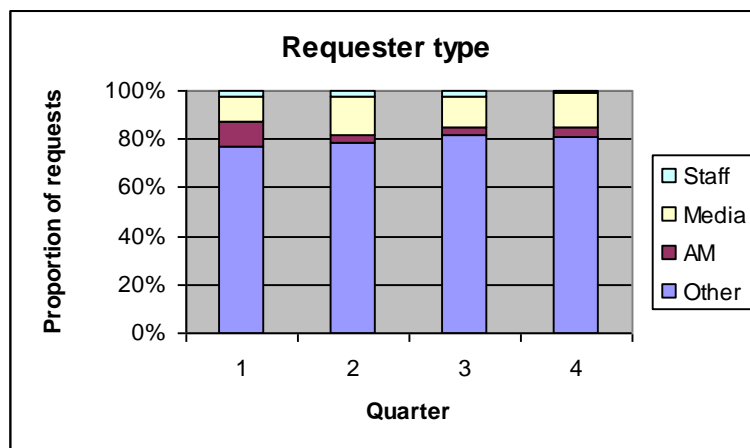


Figure 2: Requests received from each type of requester during each quarter of 2007

Most departments within the Assembly Government received some requests but, as in previous years, some have received considerably more than others. The numbers of requests received by Assembly Government departments is provided in Annex 3.

Timeliness of responses

Our records show that 80% of requests were completed within statutory deadlines during 2007. The Assembly Government is pleased that this is considerably higher than in 2006 when 65% were completed within statutory deadlines. The FOIA allows for a reasonable extension to the 20 working day deadline when considering a public interest tested exemption and the EIRs allow for an extension of a maximum of a further 20 working days if the request is complex and voluminous. As before, our system monitors performance

against the target date for completion which is amended by staff handling requests when the deadline is extended. Staff have extended the target date for completion beyond 20 working days in 17% of cases.

Use of exemptions

Under the FOIA and EIRs, public authorities can refuse to provide requested information which they hold if the information falls within one or more of the categories of exempt information which are listed in the legislation. The Assembly Government has continued to use some of the exemptions available to withhold information in certain instances and, where it has, full explanations for the decisions have been provided. The Assembly Government is developing its monitoring system to ensure that aggregate information on the use of exemptions will be available in future.

Complaints

The Assembly Government initiated internal reviews in 22 cases during 2007, compared with 27 cases in 2006, following requesters expressing dissatisfaction with a decision to withhold some or all of the requested information. This equates to less than 4% of all requests received during 2007.

The Assembly Government also received 13 complaints in 2007 – compared with 9 in 2006 - which raised concerns about the timeliness of its response to a request, alleged that a request had not been properly administered or alleged that information had been released inappropriately.

The Assembly Government issued apologies in response to complaints which raised legitimate concerns about the timeliness of its response or an administrative issue, and has so far released further information in 3 cases after internally reviewing decisions to withhold information.

Appeals to the Information Commissioner and Information Tribunal

The Information Commissioner Office's (ICO) Case Reception Team notified the Assembly Government of 9 complaints (6 from one individual) which it received during 2007. The ICO only considered it necessary to fully investigate

one of these complaints and the Assembly Government has provided further information following clarification from the requester. This is significantly lower than in 2005 and 2006 when the ICO investigated 12 complaints relating to the Assembly Government over the two years.

No case involving the Assembly Government was appealed to the Information Tribunal in 2007.

Information routinely published

During 2007, the Assembly Government continued to routinely publish a considerable amount of information through its Publication Scheme and worked with the ICO to develop a new framework for Publication Schemes to be adopted across public authorities. To facilitate access to publications, a new bilingual and searchable Publications Catalogue was introduced.

The information published includes:

- ministerial decisions covering the background facts and analyses;
- agendas, papers and minutes of Cabinet meetings;
- agendas, papers and minutes of Management Board meetings;
- new internal guidance for handling requests for recorded information; and
- information disclosed in response to requests handled under the FOIA and EIRs, regardless of the subject matter.

Conclusion

In 2007 the Assembly Government reconfirmed its commitment to openness by implementing a new Code of Practice on Access to Information and continued to release a vast amount of information. New guidance and a new staff training module were developed to facilitate effective implementation of the new Code. The Assembly Government welcomes the fact that it has completed more requests within statutory deadlines than in 2005 and 2006, and aims to realise further improvements in 2008 and subsequent years beyond. The Assembly

Government envisages that the provisions provided by its new Code of Practice on Access to Information to, where appropriate, refuse requests which cannot be brought below the appropriate limit will help it to achieve this aim.

The Assembly Government also welcomes the fact that the numbers of complaints received internally and by the ICO has remained low, and will make every effort to influence a continuation of this trend.

Considerable work is underway to enhance the Assembly Government's system for tracking requests for information which will result in the ability to provide more detailed information in future reports. A further report will be published early in 2009 on activity during 2008.

Access to Information Unit

Information and Knowledge Management Division

Corporate Information and Services Department

Annex 1: Requests received each month during 2007

<u>Month</u>	<u>2007</u>	<u>% of Total</u>
January	48	8.4
February	66	11.5
March	70	12.2
April	45	7.8
May	43	7.5
June	41	7.1
July	50	8.7
August	41	7.1
September	35	6.1
October	53	9.2
November	55	9.6
December	27	4.7
Total	574	

Annex 2: Requests received from each type of requester during each quarter of 2007

	<u>Other</u>	<u>AM</u>	<u>Media</u>	<u>Staff</u>	<u>MP</u>
Quarter 1	142	18	20	4	0
Quarter 2	101	4	20	3	1
Quarter 3	101	4	16	3	2
Quarter 4	108	6	19	1	1

Annex 3: Number of requests received by Assembly Government departments during 2007

<u>Department</u> ⁵	<u>2007</u>	<u>% of Total</u>
Business Development	0	0
Constitutional Affairs, Equality & Communication	8	1.4
Corporate Information & Services	31	5.4
Children, Education, Lifelong Learning & Skills	40	7.0
Environment, Sustainability & Housing	89	15.5
Health & Social Services	93	16.2
Public Health & Health Professions	5	0.9
Public Services & Performance	25	4.4
Department for Rural Affairs & Heritage	74	12.9
Social Justice & Local Government	24	4.2
Economy & Transport	119	20.7
Department of the First Minister	8	1.4
Finance	11	1.9
Human Resources	42	7.3
Legal Services Department	3	0.5
Office of the Permanent Secretary	2	0.3
Other	0	0
Total	574	

⁵ The departments listed are those formed during the organisational restructure which took place in mid 2007. All requests have been associated with the department now responsible for the information