



Information requests (Data protection, Freedom of Information) received by the Brigade in 2022/23

Report to:	Date:
Performance, Risk and Assurance Board	17 November 2023
Commissioner's Board	6 December 2023
Audit Committee	26 February 2023

Report by:
Head of Information Management (and Data Protection Officer)

Report classification:
For assurance

For publication

PART ONE

Non-confidential facts and advice to the decision-maker

Executive Summary

Annual update on the number of information requests received by the Brigade under data protection and freedom of information law in 2022/23, and the Brigade's performance in responding to those requests within statutory timescales. The report also highlights key information access issues and shows comparative performance with previous years.

Recommended decision

That the Audit Committee note this report.

1 Introduction and background

- 1.1 This annual report updates Boards and the Audit Committee on the Brigade's performance in responding to requests for information made under the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA)/UK General Data Protection Regulation (UK GDPR)¹. The Head of Information Management – based in the ICT Department – is the Brigade's Data Protection Officer as required by the UK GDPR (and as set out in the LFC Scheme of Governance).
- 1.2 This paper details requests received last year (2022/23) with comparison with earlier years. The report reviews the Brigade's performance in responding to requests, with additional information on other data protection obligations. There is comparative performance for handling FOIA requests by other GLA group bodies.

2 Objectives and expected outcomes

- 2.1 This report is submitted so that the London Fire Commissioner can be assured that statutory requests for information under freedom of information and data protection law are being handled appropriately. The submission of an annual report was a recommendation from an internal audit Data Protection Compliance Framework review in January 2020. There is also an update report about information requests received, and performance in responding to them, to the Performance, Risk and Assurance Board each month.
- 2.2 As with the report for 2021/22, the bulk of material that comprises this report is presented as PowerPoint slides which are attached as an **appendix** to this covering paper.
- 2.3 Performance in responding to requests in 2022/23 is now back to pre-Covid levels and exceeds the corporate target (90 per cent on time).

¹ Including requests under the Environmental Information Regulations (EIR), although no EIR requests in 2021/22.

2.4 Total information requests were up in 2022/23:

- **Subject Access Requests (SARs)** made by individuals for their personal data (under data protection law) were up 39 per cent on 2021/22, with police disclosures up by 54 per cent. Subject access requests – often generated by staff discipline, grievance, or employment tribunal cases – are often complex, involving hundreds of documents and time-consuming to handle. SARs in quarter 4 show an impact from Culture Review/CMP related requests (which continues into 2023/24). Otherwise, there is no discernible trend to explain the increased volume.
- **Freedom of information requests** remained consistent with 2021/22 figures, with requests about fire safety in buildings and about incidents attended by the Brigade accounting for just over 60 per cent of all requests. There has been a large (98 per cent) increase in requests about staffing from 2021/22, potentially resulting from the Culture Review, and the People Services review.

2.5 Requestors can ask the Brigade to review the response it provides if not satisfied, and also complain to the Information Commissioner's Office (ICO). This information provides some assessment of the quality of the Brigade's initial response. In 2022/23 there were:

- Nine internal reviews of responses to Subject Access Requests (six per cent of all SARs), and one complaint to the ICO (not upheld).
- Nine internal reviews of responses to FOI requests (two per cent of all FOI requests), and four complaints to the ICO (not upheld).

3. Equality comments

3.1 The LFC and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.

3.2 It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.

3.3 The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), race (ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex, and sexual orientation.

3.4 The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:

- eliminate discrimination, harassment and victimisation and other prohibited conduct.
- advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
- foster good relations between people who share a relevant protected characteristic and persons who do not share it.

3.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic.
- take steps to meet the needs of persons who share a relevant protected characteristic that are

different from the needs of persons who do not share it.

- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

3.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

3.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- tackle prejudice
- promote understanding.

3.8 There are no significant equality impacts arising from the work to be handled and responded to information requests.

4 Other considerations

Workforce comments

4.1 There are no specific workforce impacts arising from this report.

Sustainability comments

4.2 There are no sustainability impacts arising from this report.

Procurement comments

4.3 There are no procurement issues arising from this report.

Communications comments

4.4 There are no communication issues arising from this report.

5. Financial comments

5.1 The Chief Finance Officer has reviewed this report and has no comments.

6. Legal comments

6.1 Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office.

6.2 The Data Protection Act 2018 (DPA 2018) sets out the framework for data protection law in the UK. The UK General Data Protection Regulation (UK GDPR) came into effect on 01 January 2021. It sets out the key principles, rights and obligations for most processing of personal data in the UK. The Freedom of Information Act 2000 (FOIA) provides public access to information held by public authorities.

6.3 The UK GDPR requires, per articles 7 and 37, that the Commissioner appoints a data protection officer (DPO). The DPO is required by the UK GDPR, amongst other duties, to monitor compliance with the UK GDPR, with other domestic law relating to data protection and with the policies of the Commissioner in relation to the protection of personal data.

6.4 It is further a requirement that the DPO, in fulfilment of this role, shall directly report to

the highest management level of the organisation, article 38.

6.5 This report is provided in pursuance of the requirements of the UK GDPR as set out above.

List of appendices

Appendix	Title	Open or confidential*
1	Information requests 2022/23	Open



Information requests 2022/23

Data protection and Freedom of Information requests received by the Brigade

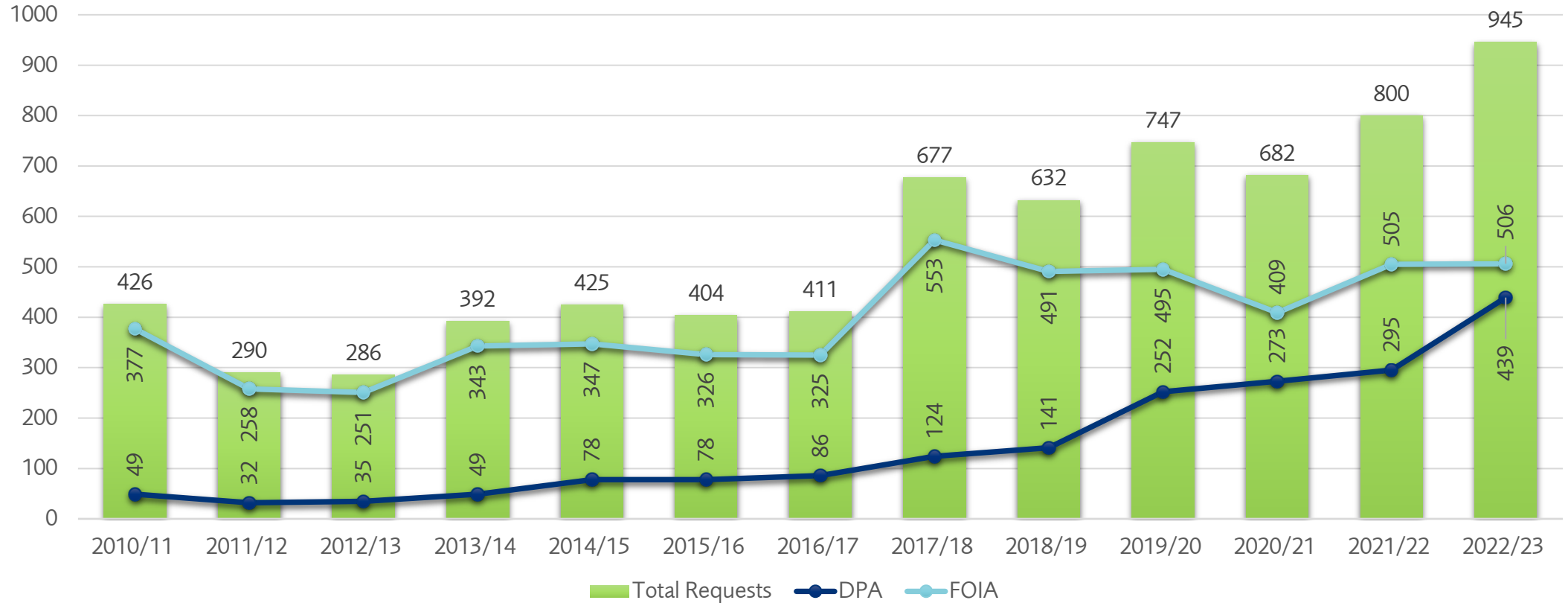
Head of Information Management (and DPO)

This report

- Update on Brigade performance responding to information requests under freedom of information* and data protection law.
- Requests dealt with by the Information Access Team (part of ICT Information Management).
- Head of Information Management is the Brigade's Data Protection Officer

*includes requests under the Freedom of Information Act and Environmental Information Regulations (EIR).

Total information requests received

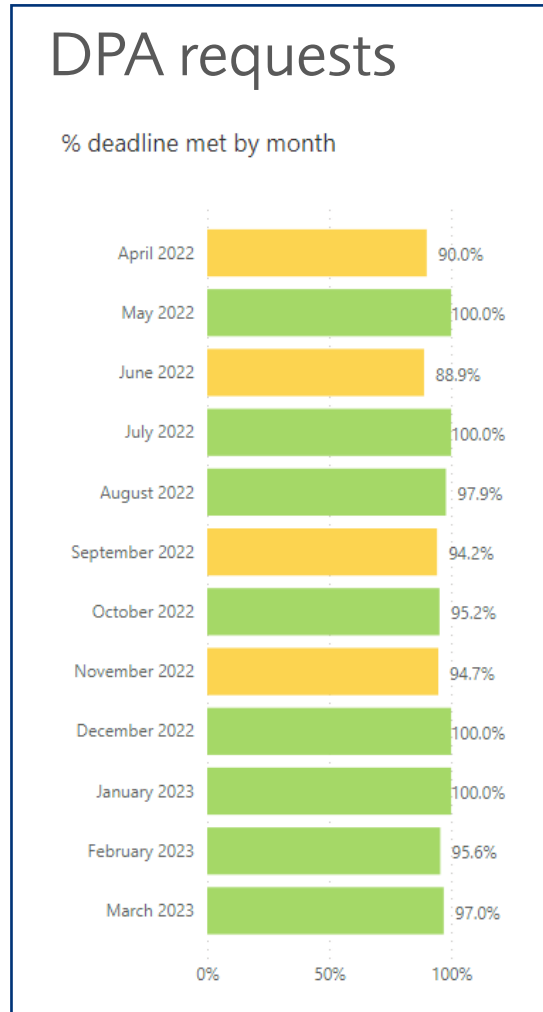
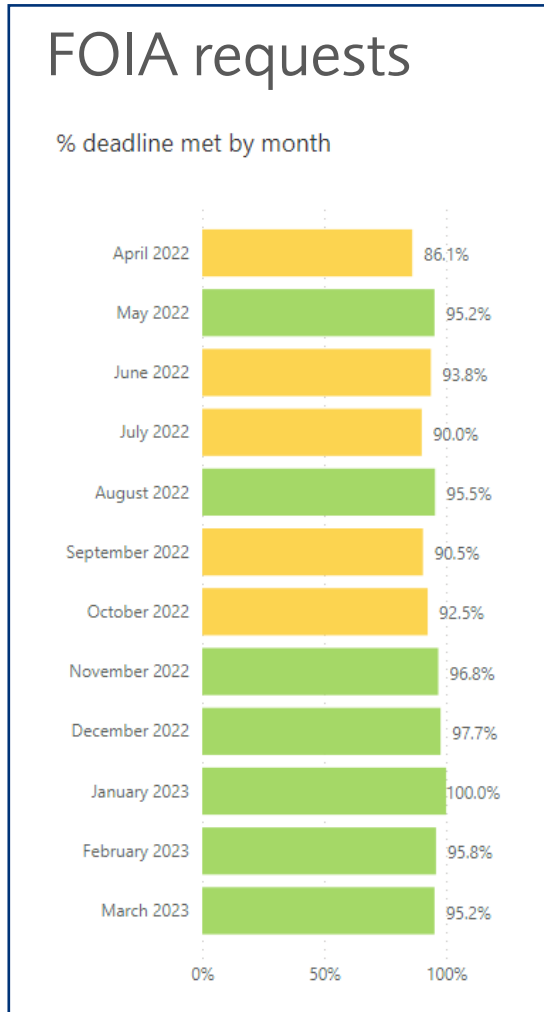


Total requests received

- Requests up; 2022/23 highest year ever.
- Increase in DP requests* (+ 49%).
- Steady growth in requests since GDPR (May 2018).
- No increase in FOIA requests.

*includes police information disclosure requests (not SARs) handled under data protection rules (within 30 calendar days).

Monthly performance 2022/23



- There has been consistent performance, looking at the monthly performance figures separately for FOIA and DP requests.
- 95 per cent of total requests responded to within statutory deadline.

Performance

London Safety Plan 2017 performance indicator (CO16) measured how well the Brigade was meeting the statutory deadlines for responding to information requests under the FOIA (20 working days) and to Subject Access Requests (SAR) under the DP law (one calendar month)*.

Indicator		2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
CO 16 – Requests for information under DP law and FOIA fulfilled within time limits	Performance	97.5%	94.8%	79.6%	38.3%	70.3%	95.1%
	Target	90%	90%	90%	90%	90%	90%

*Note: There is no corporate (CRMP) indicator for information request handling from 2023/24 onwards.

Performance in 2022/23

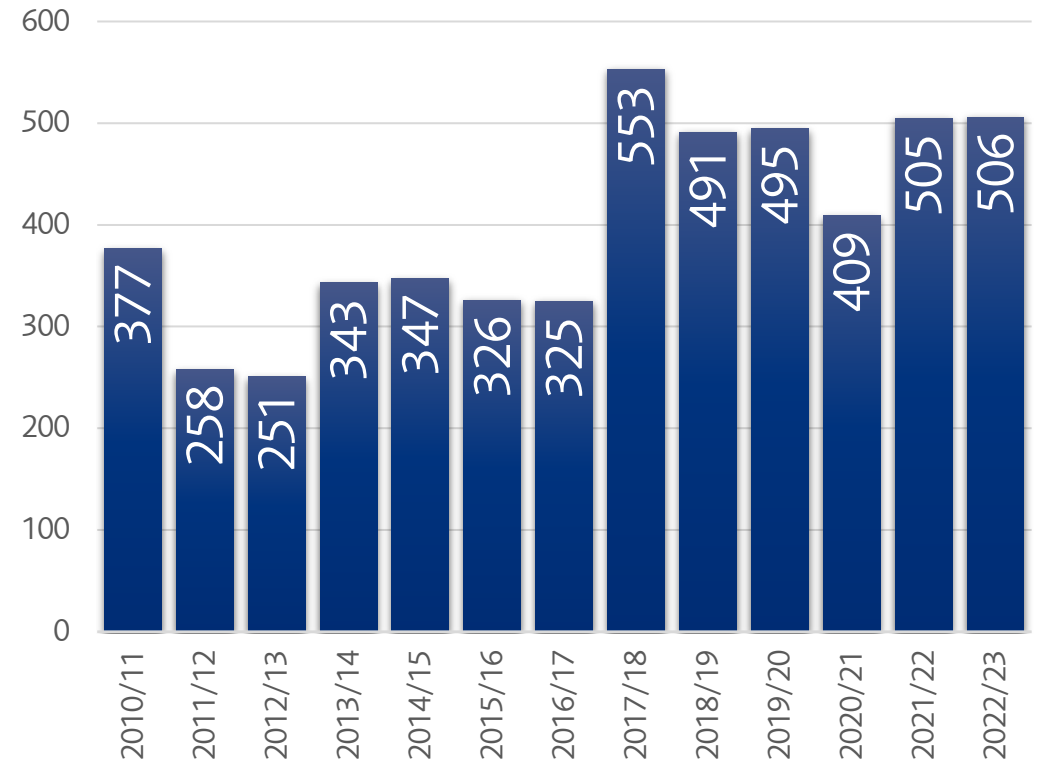
- Overall increase in the total number of requests, drive by increased requests under data protection law.
- Corporate performance indicator target reached and exceeded for first time since the pre-Covid period (2019/20).

Freedom of information

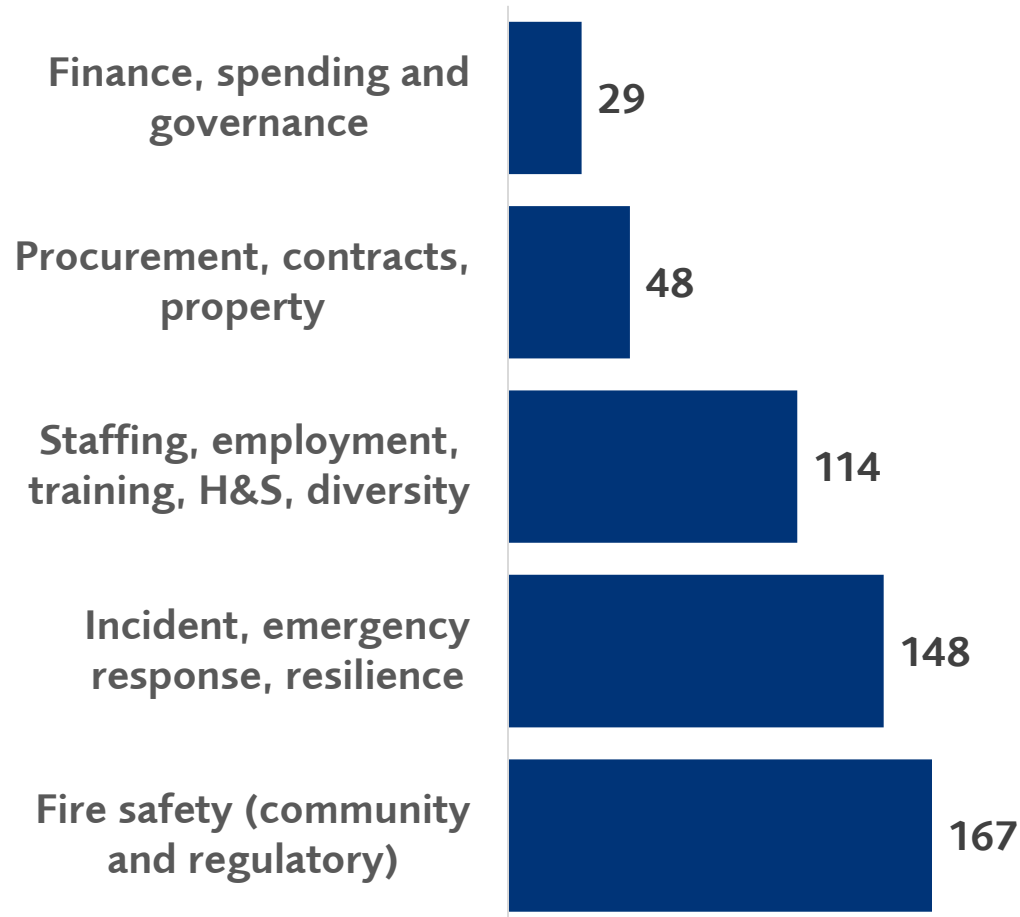


FOIA requests by year

- Second highest number of requests in 2022/23, since FOIA began.
- Significant increase in 2017/18 after the Grenfell Tower fire.
- Higher level continues; now greater interest in building fire safety issues.



FOIA requests by broad category

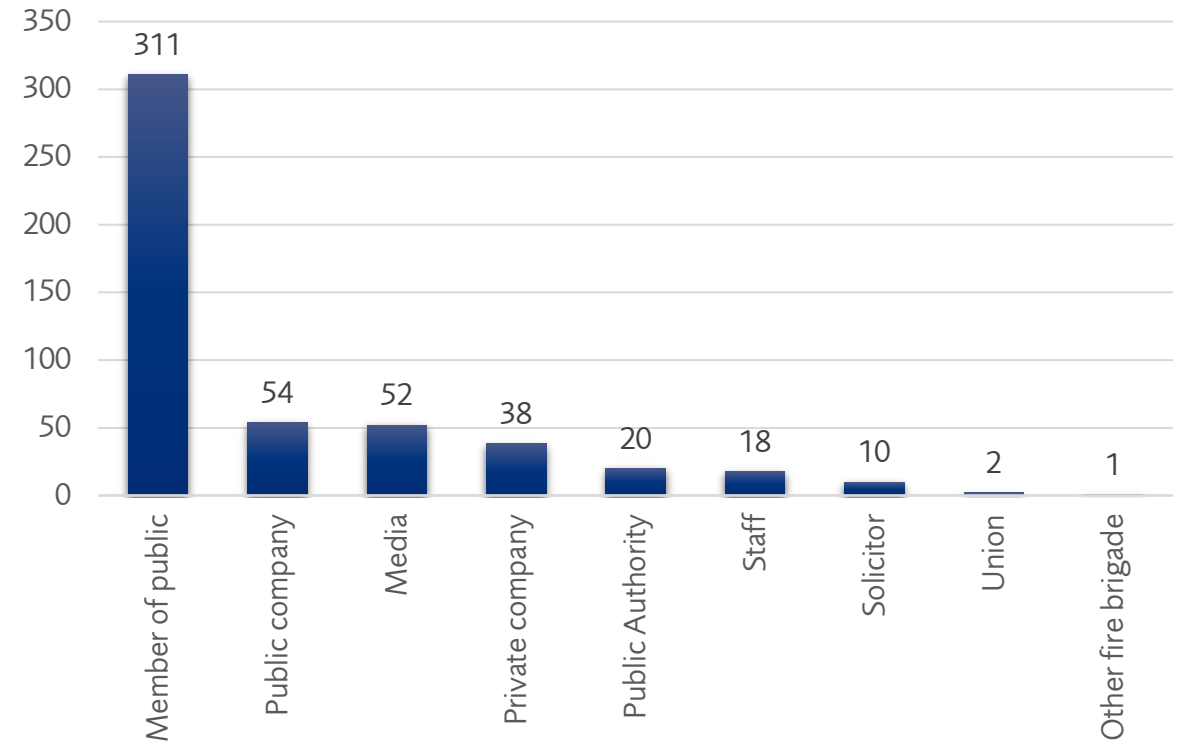


- 61 per cent of all requests continue to be about fire safety or incidents.
- Large (98 per cent) increase in requests about staffing matters from 2021/22, potentially resulting from the Culture Review and CMP investigations.

FOIA requests by likely source

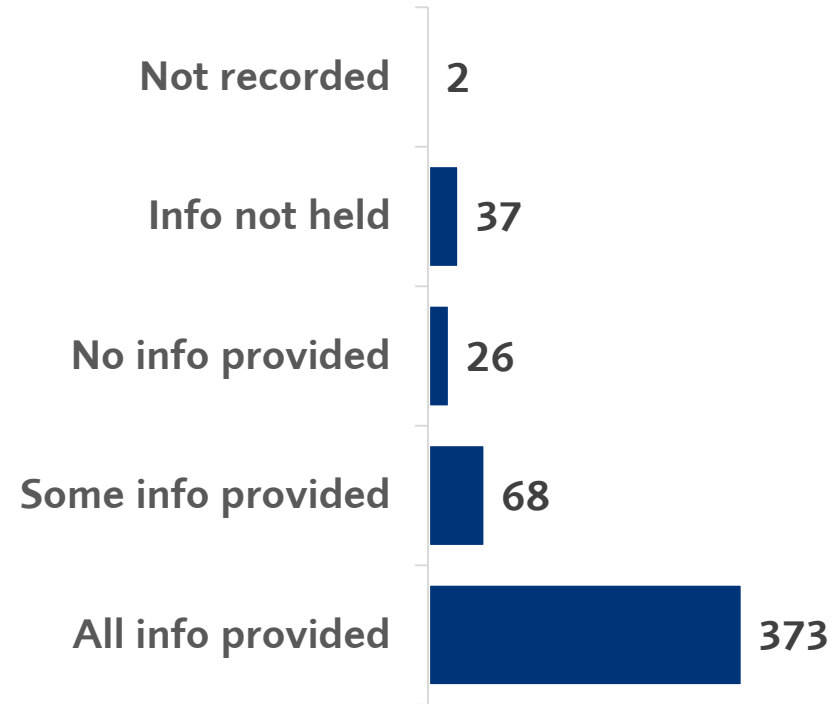
- FOIA is an 'applicant blind' process.
- No definitive information on requestors; there is no requirement to provide this information.
- Infer likely source from details provided.

Number of FOI requests received by applicant



How much information provided

- Information provided in full for three quarters of requests.
- Some, or no information provided, will be usually because an exemption was used (see next slide).
- In a small number of cases, we do not hold the information requested.



Exemptions used

Exemption	No.
s.12 Cost of compliance exceeds limit	6
s.14 Vexatious or repeated requests	1
s.21 Information accessible by other means	7
s.22 Information intended for future publication	3
s.24 National security	2
s.31 Law enforcement	22
s.38 Health and safety	3
s.40 Personal information	27
s.42 Legal professional privilege	1
s.43 Commercial interests	2
Total	74

Exemptions used not to provide information or redact.

- Used in 14 per cent of request responses.
- s.40 and s.31 most often used to protect personal data and fire safety information (law enforcement).

FOIA – internal reviews

- Requestors have the right to ask the Brigade to review its response if not satisfied with it.
- A review is a precursor to any complaint to the Information Commissioner
- Reviews by Head of Information Management.
- Review requests are infrequent.
- Nine review requests in 2022/23 (2 per cent of all FOIA requests).

FOIA - complaints to the ICO

- Requestors can complain to ICO if they are not happy with LFB handling of a request.
- **Four** complaints made to ICO in 2022/23; all were rejected after ICO investigation.

Transparency

- Pro-active publication of information is encouraged by FOIA publication scheme (via LFB website).
- Disclosure log includes responses to FOIA requests – published on LFB website. Fully updated in 2022/23; and updated regularly.
- Data on London Datastore helps meet FOIA requests. Fire safety audit data published in 2022/23.

Working with departments

- Weekly sharing of details of requests received with LFB Comms and senior managers + GLA.
- Liaise, as needed, on responses with General Counsel.
- Work with others (e.g. fire safety) to improve transparency and proactively publish information.

GLA comparison 2022/23

FOIA performance for some GLA group bodies

GLA group body	Requests	Completed on time
Transport for London	3,376	99.9%
Greater London Authority	920	88.6%
<i>London Fire Brigade</i>	506	94.2%
Metropolitan Police Service	*4,981	N/A

*2022 calendar year

Data protection



DP – requestors

- Requests from staff, or on their behalf (e.g. solicitors, TUs) account for two-thirds of SARs.
- Requests often about grievance, discipline or ET cases, are complex and time-consuming.
- Q4 show an impact from Culture Review/CMP related requests. Otherwise, there is no discernible trend to explain the increased volume.
- Police information disclosure requests included, but information is more easily provided information, e.g. incident caller details for arson investigations.

DP – requests by year

Highest number of requests in 2022/23 to date.

49 per cent total increase from 2021/22 broken down as follows:

Type of DPA	Number received	% increase from 2021/22
SARs	152	39%
Police disclosures	287	54%
Total	439	49%



Note: Police disclosure requests are only recorded from 10/4/2019

DP – main category analysis

Category	2021/22	2022/23	Change
CMP Investigation	0	5	-
General SAR	31	49	58%
HFSV/Incident	37	39	5%
Occupational health	16	11	-31%
Other LA investigation	6	11	83%
Personal Record File (PRF)	17	26	53%
Recruitment/Interview	0	5	-

- Overall increase in SARs but no discernible trend to explain volume increase.
- The team received new request types for recruitment/interview data and CMP investigation documents.
- Increase in queries from ICO about handling of personal data (not something seen before).
- Requests from other local authorities about LFB staff increased.
- A Facebook post on a retired LFB staff page led to a spike in PRF requests in 2022/23.

DP – exemptions used

- There are very few exemptions to disclosure available in data protection law.
- The main exemption – used in almost every response – is data about people other than the data subject (third parties).
- Sometimes need to use exemption for legal advice (legal professional privilege).

DP – internal reviews

- The Brigade will review its handling of a SAR response when asked by the requestor.
- In 2022/23 there were nine requests for review; just under six per cent of SARs (152). Concerns were:
 - redactions – most often to protect third party data.
 - missing information – requestors think there is more information than is actually the case.

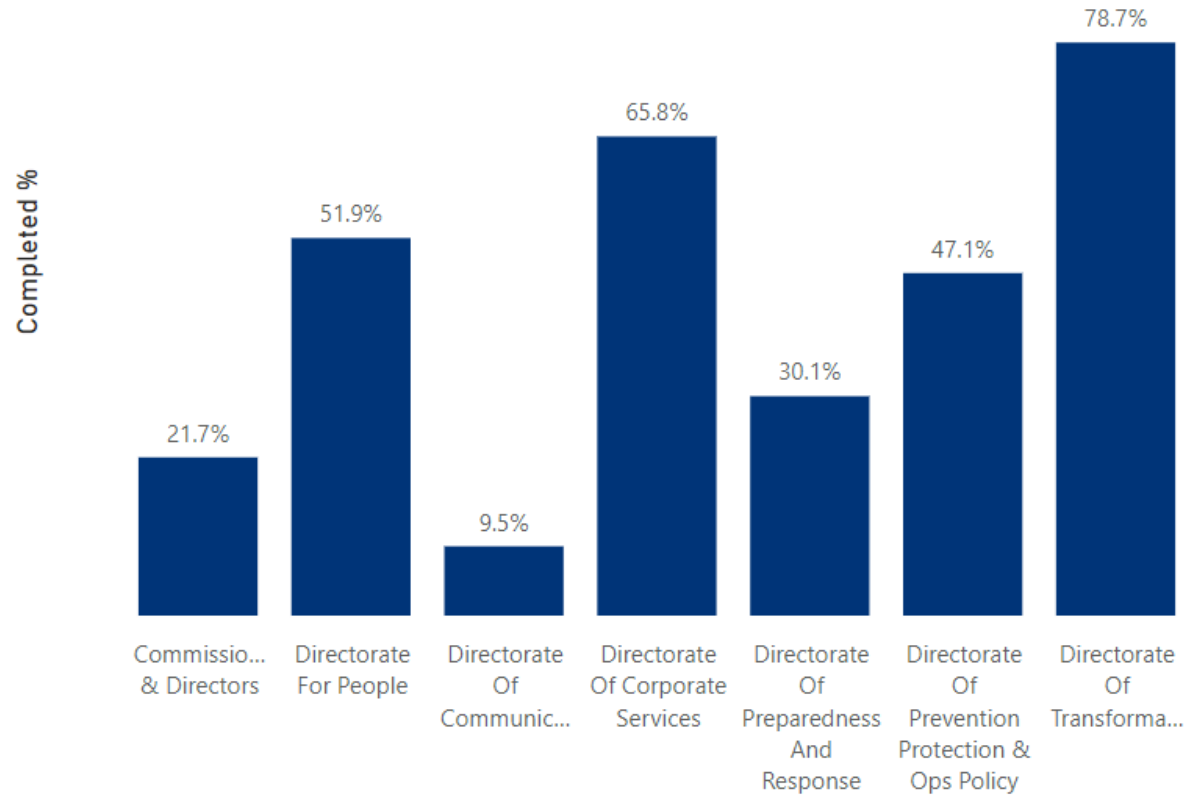
DP – complaints to ICO

- Requestors can complain to the ICO if dissatisfied with Brigade response.
- **One** complaint in 2022/23 – about LFB obtaining information from another public authority.
- The DPA element of this complaint was rejected by the ICO.

Personal data breaches

- GDPR introduced duty to record personal data breaches and for high risks are reported to the ICO.
- **19** reported data breaches in 2022/23; 18 were minor/low risk and not notifiable to ICO.
- One reported to ICO was a widespread breach after SharePoint Online was live at fire stations; files with personal data saved to the wrong (non-secure) folders by staff. Issue is actively being managed by DPO, with Fire Stations Dept.
- The IAT work to improve organisational awareness of the risks of handling personal data.

DP online awareness training



- Completion rate at under 50% at end 2023.
- Directorate performance varied.
- Training mandatory from 2024 monitored via appraisal process.

DP – use of e-Discovery tools

- Currently, we rely on staff/managers providing the personal data requested to respond to requests.
- Microsoft 365 allows use of e-discovery tools to locate information (e.g. emails, documents) for requests.
- Team staff training undertaken in January 2023.
- 'ICT acceptable use policy' updated to reflect use of e-discovery tools for searches.

Privacy by design

- GDPR is based on 'privacy by design'.
- Data protection impact assessments (DPIAs) ensure projects, policies, etc. designed with privacy in mind.
- 24 DPIAs considered during 2022/23... but many produced too late, rather than at start of change.
- Have an *information assurance manager* in post to focus on privacy and DPIAs (plus data breaches).

Internal audit review

- MOPAC completed a Data Protection Compliance Framework follow-up review in June 2022. Three issues outstanding were completed in 2022/23:
 - Information process register (IPR) completed.
 - IPR to be updated annually via department data compliance returns.
 - Internal Information Sharing and DP Forum meetings to continue.