

FOI Annual Report 2014



**An Assessment of the Tenth Year
of Freedom of Information Act**

Requests to Invest Northern Ireland

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Introduction

1. Introduction

The Freedom of Information Act 2000 (FOI) and the Environmental Information Regulations 2004 (EIR) came fully into force on 1 January 2005.

The FOI Act confers two statutory rights on applicants:

- 1) To be told whether a public authority holds the information requested; and if so,
- 2) To have that information communicated to them

These rights are subject to a limited range of exemptions.

The EIR promotes the release of environmental information by providing a regime similar to the FOI Act. Its aim is to enable increased public participation in environmental decision-making.

This annual report provides information about the handling of all 'non-routine' information requests processed under the FOI Act or EIR, received by Invest Northern Ireland (Invest NI) over the period 1 January to 31 December 2014. Section 3 gives a definition of a non-routine request.

This is the seventh FOI annual report compiled by Invest NI using statistical information gathered on each request during the reporting period. It is consistent with the reports issued by central and local government. This is to help increase accountability, transparency and performance of all bodies covered by the legislation.

The report provides a summary of the performance of Invest NI in its handling of requests made under the FOI Act, including those handled under EIR. Invest NI produces quarterly reports containing data on how requests have been handled during the year. The quarterly reports and previous annual reports are available on the Invest NI website and can be found at the link below:

<http://www.investni.com/about-us/media-centre/publications-and-reports.html?FirstLetter=F>

Executive Summary

2. Executive Summary

This report sets out Invest Northern Ireland's performance during calendar year 2014 in handling requests for information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

Key findings include:

- Invest Northern Ireland received a total number of 109 non-routine requests handled under the FOI Act and the EIRs. This represents a 6% increase on the number received in 2013.
- 46% of all requests received were submitted by members of the public, followed by businesses with 38%. The media submitted 7% of requests.
- 97% of requests received a substantive response within the time frame permitted by the legislation. The average time for response was 14 days.
- 43% of “resolvable” requests (those where it was possible to give a substantive decision on whether to release the information being sought) were disclosed in full, while 19% resulted in the information requested being fully withheld.
- The most commonly applied exemptions were applied to personal information (Section 40/Regulation 13) and commercial information (Section 43).
- A total of 10 internal reviews were requested on the grounds that some or all of the requested information was withheld.
- In 90% of internal review cases the original decision was upheld and in 10% the complaint was upheld.
- Invest NI has not been made aware of any appeals to the Information Commissioner's Office during this reporting period.

Definitions

3. Definitions

3.1 Defining the scope of Freedom of Information monitoring

Section 1 of the Freedom of Information Act 2000 states that (subject to certain exemptions): ‘Any person making a request for information to a public authority is entitled *(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and (b) if that is the case, to have that information communicated to him*’

Regulation 5 of the Environmental Information Regulations 2004 states that (subject to certain exceptions): ‘*A public authority that holds environmental information shall make it available on request.*’

The above provisions apply to all relevant requests for information made to public authorities, no matter how routine and straightforward they may be. Invest NI supplies large amounts of information, both on request and proactively, as an established and routine part of its business. This includes information released in the form of leaflets, correspondence exchanges, reports and other published material, and through websites and its publication scheme.

All information released on request is covered by the FOI Act. However, it would be both uninformative and fundamentally unfeasible to count all such activity in Freedom of Information monitoring returns. The statistics in this report therefore relate only to the ‘non-routine’ information requests that Invest Northern Ireland has received.

Essentially, this means that statistics recorded only include those requests where:

1. It was necessary to take a considered view on how to handle the request under the terms of the FOI Act, and
2. The Information Management & Governance Team was informed of the request and logged it in their case management system.

3.2 Defining a request

An information request for monitoring purposes is one:

1. Which meets the criteria in section 8 of the FOI Act and, if the request falls under the EIRs, it includes requests made in any form or context, including oral requests; **and**
2. (i) Which results in the release of information (in any media); **or**
(ii) Results in information being withheld under an exemption or exception from the right of access (either the FOI Act the EIR); **or**
(iii) The request is not processed because Invest NI estimates the cost of complying would exceed the appropriate limit in accordance with section 12 of the FOI Act; **or**
(iv) The request is not processed because Invest NI is relying on the provisions of section 14 of the FOI Act (vexatious or repeated requests); **or**
(v) Where a search is made for information sought in the request and it is found that none is held.

Responsibilities

4. Responsibilities

4.1 Organisational Responsibilities

As the regional business development agency, Invest NI's role is to grow the local economy. We do this by helping new and existing businesses to compete internationally, and by attracting new investment to Northern Ireland.

We are part of the Department of Enterprise, Trade and Investment and provide strong government support for business by effectively delivering the Government's economic development strategies.

Invest Northern Ireland is designated as a separate public authority under the FOI Act. This means that it is independently responsible for handling requests for information.

As required by the FOI Act, Invest NI has produced a publication scheme. This is the vehicle that a public authority uses to inform the public of the information it publishes or intends to publish, where it can be accessed and whether the information will be available free of charge or at a specified cost. Invest NI's publication scheme can be found on its website. This can be accessed via the following web addresses / links:

<http://www.investni.com/about-us/our-approach/freedom-of-information.html>

The Chief Executive is the designated 'qualified person' for the purposes of Section 36 of the FOI Act.

Responsibility for Freedom of Information compliance rests with the Finance and Operations Group, namely the Information Management & Governance Team within the Internal Operations Division.

4.2 Information Management & Governance Team Responsibilities

The Information Management & Governance team has responsibility for the provision of advice and guidance to Invest NI in relation to access to information legislation (the FOI Act, the EIR and the Data Protection Act 1998 (DPA)).

Its main functions in relation to access to information are:

- Overseeing, coordinating, advising and supporting Invest NI in their compliance with access to information legislation.
- Allocating requests received centrally to the relevant Division within Invest NI to prepare a response.
- Issuing guidance and encouraging best practice in relation to request handling.
- Managing a FOI request tracking and monitoring system on behalf of the organisation.
- Overseeing compliance with the ICO model publication scheme contained on Invest NI's website.
- Publishing quarterly statistics and an Annual Report on the FOI performance of Invest NI.

Invest NI's Performance

5. Invest Northern Ireland's Performance

5.1 Volume of Requests

Invest NI received a total of 109 requests for information under the FOI and EIR legislation during 2014. This represents a 6% increase on the 103 requests received in 2013.

Figure 1 below details the annual total number of requests received by Invest Northern Ireland in the last five previous years.

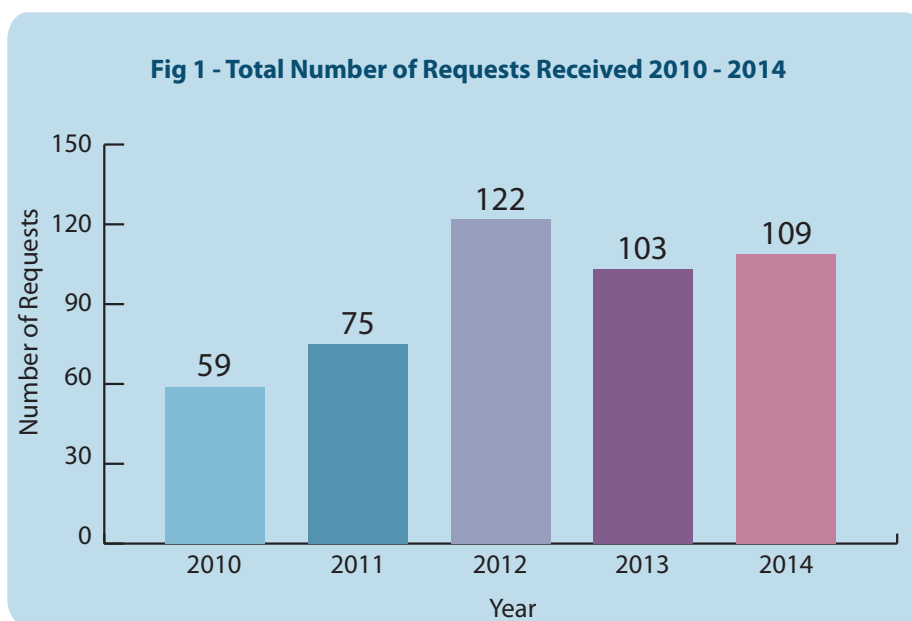
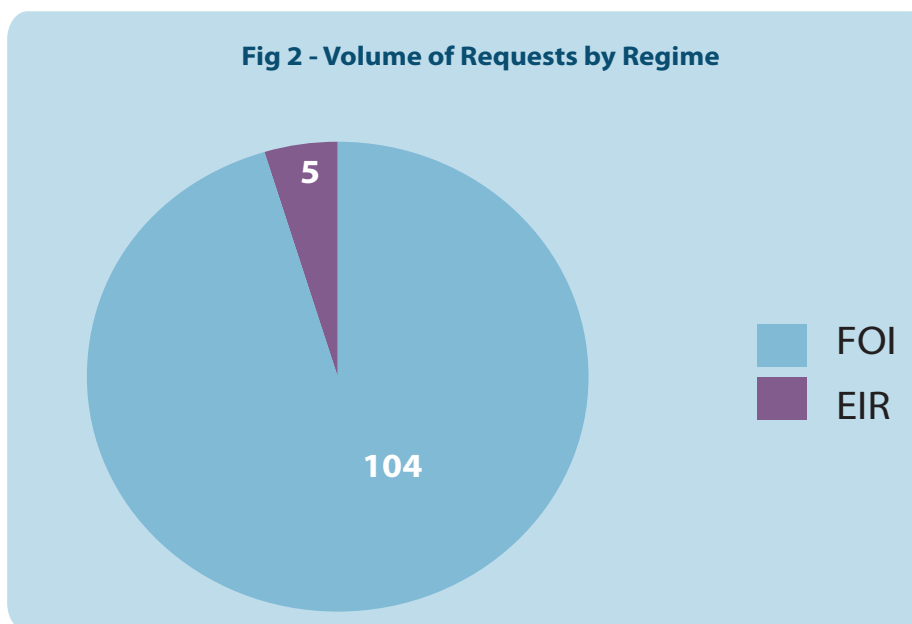


Figure 2 below shows the breakdown by regime under which the requests were handled.



The vast majority of the requests for information were dealt with under the Freedom of Information legislation (95%). The remaining requests were handled under the Environmental Information Regulations (5%).

5.2 Category of Requester

Invest NI assigns one of the following categories to each request: Business, Campaigning Group, Media, Member of the Public, Researcher, Public Representative, or Solicitor.

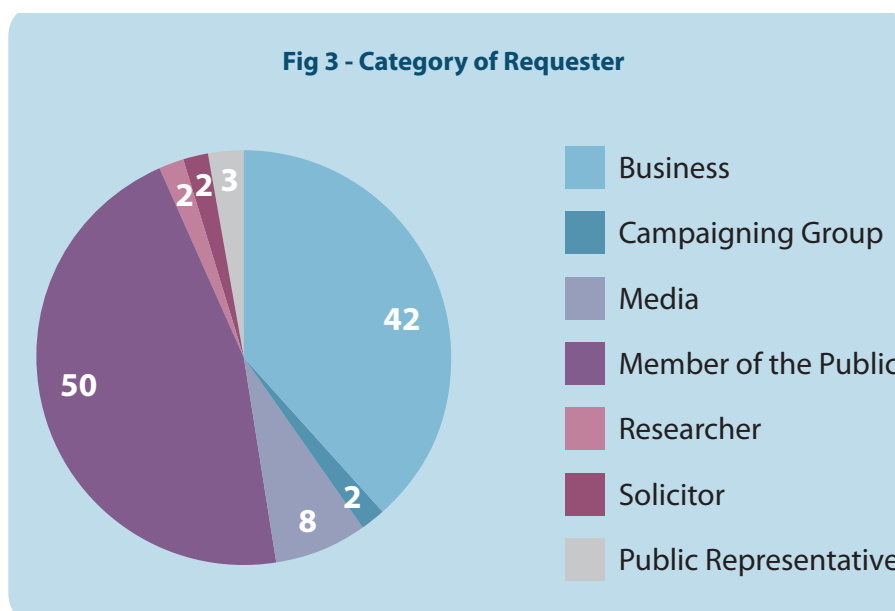
However, it is sometimes not possible to determine accurately the category of requester for every request, though these instances are rare. Using the information that has been provided, conclusions have been drawn regarding the source of the requests submitted.

As Figure 3 below shows, the largest number of requests to Invest NI continues to be received from Members of the Public (46%).

The second largest number of requests was received from Businesses (38%).

The remaining requests came from the Media (7%), Public Representatives (3%), Solicitors (2%), Campaigning Groups (2%), and Researchers (2%).

NB: Please note that figures may not total to 100% due to rounding.



High profile requests – those received from Campaigning Groups, the Media, and Public Representatives - together accounted for 12% of all requests received in 2014.

5.3 Outcome of Requests

Of the 109 requests for information processed in 2014, 6 requests were either ‘on hold’, ‘lapsed’ or ‘withdrawn’ at the time of reporting and none were ‘still being processed’.

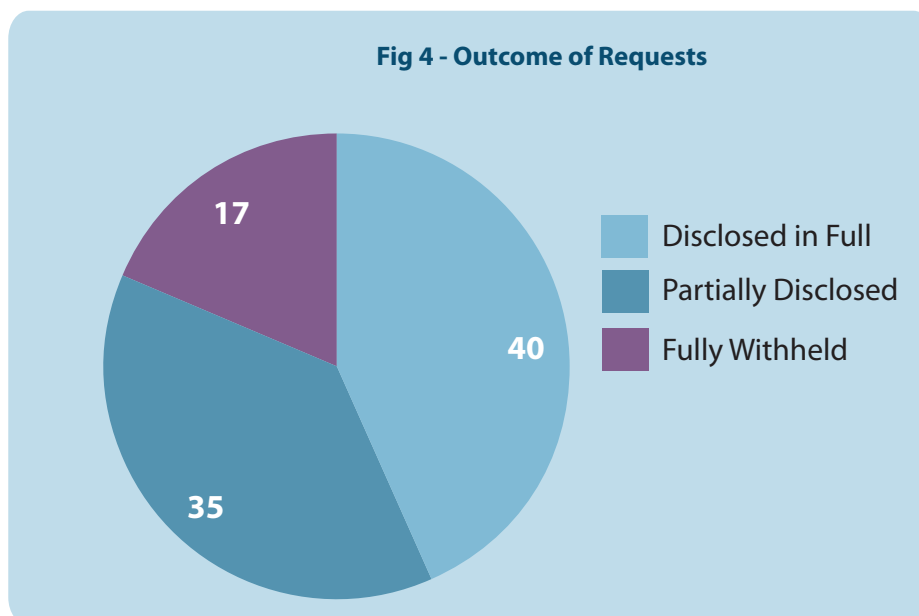
Requests may be ‘on hold’ or ‘lapsed’ if the request needed further clarification in order to identify the information being sought and no further response has been received by an applicant.

Requests ‘still being processed’ may be going through the public interest test process or are within the 20 day timescale at the time of reporting.

‘Withdrawn’ requests are those where the applicant has advised Invest NI that they no longer require the information during the legislative timeframe for responding.

Of the remaining 103 requests processed, 11 sought information that was 'not held' by Invest NI. The remaining 92 requests were classed as 'resolvable', in that it was possible to give a substantive decision on whether to disclose the information sought.

As Figure 4 shows, in 43% of resolvable requests the information was disclosed in full and in 38% of cases the information was partially disclosed. In 2014, 19% of requests for information resulted in the information being fully withheld.



The annual disclosure trend for Invest Northern Ireland over the last five years is shown in figure 5 below:

FIGURE 5	2010	2011	2012	2013	2014
Disclosed in Full	60%	62%	64%	71%	43%
Partially Disclosed	38%	35%	30%	24%	38%
Fully Withheld	2%	3%	6%	5%	19%

In 2014, 81% of resolvable requests resulted in all or some of the requested information being released.

5.4 Use of Exemptions/Exceptions

Under the FOI Act, a public authority can only refuse to provide requested information that it holds if:

- The request is considered vexatious or repeated;
- The cost of compliance would exceed the 'appropriate limit' (£450);
- A fee is not paid;
- The information falls in one or more of the categories of exempt information listed in Part II of the Act.

Exemptions are either 'absolute', i.e., no obligation exists under the FOI Act to consider the request for information further, or 'qualified', i.e., the use of the exemption is subject to a public interest test.

Similarly, the provisions of Part 3 of the EIR provide that a public authority may withhold environmental information if one or more 'exceptions' apply. However the EIR differs from the FOI Act in that Regulation 12(2) states explicitly that 'a public authority shall apply a presumption in favour of disclosure'. And, if an exception applies to requested information, a public interest test must be carried out which applies the aforementioned presumption throughout the test process.

One or more of the exemptions/exceptions were applied to 57% of the total number of resolvable requests. This is an increase on the previous year when exemptions/exceptions were applied to 29% of the total number of resolvable requests. In total, exemptions relied on under the FOI Act were engaged in 52 cases and exceptions under the EIR applied on 2 occasions.

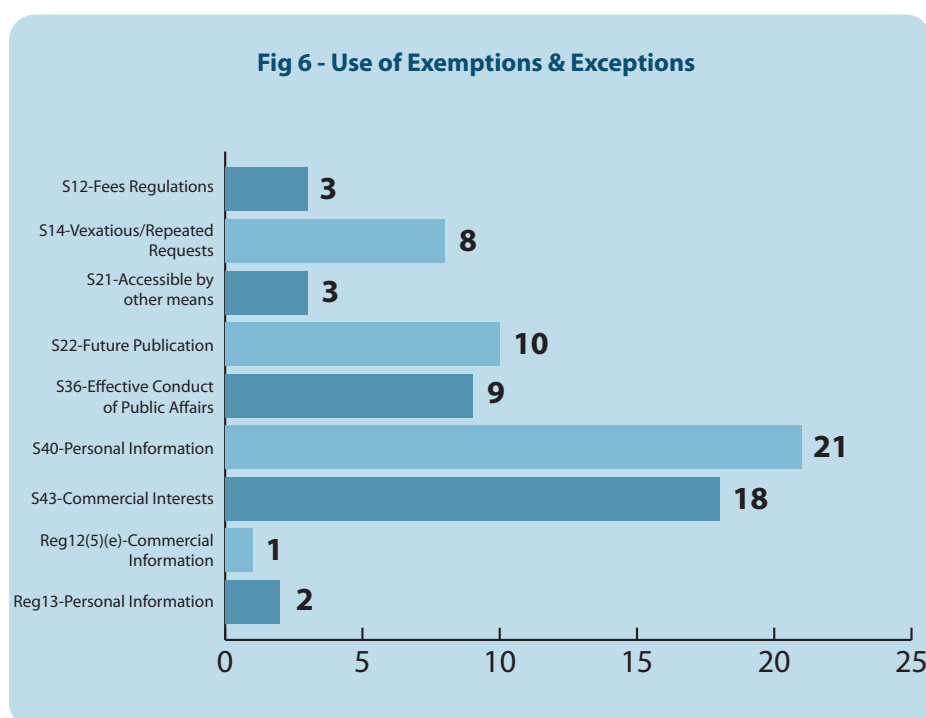
The most commonly applied exemption, as Figure 6 below shows, was in relation to personal information which was used in 16% (13) of resolvable requests. FOI Section 40 was applied in 13 requests. Under EIR Regulation 13 was applied once.

This was followed by commercial information which was withheld in 12% (10) of resolvable requests. FOI Section 43 (commercial detriment) was applied to 10 requests where exemptions were applied.

3 requests were initially refused as the cost to provide the information would have exceeded the 'appropriate limit'.

Overall, 5 of the Section 21 to 44 exemptions were used at least once in 2014 compared to 3 in 2013. In 2014, 2 exceptions under the Environmental Information Regulations were relied upon.

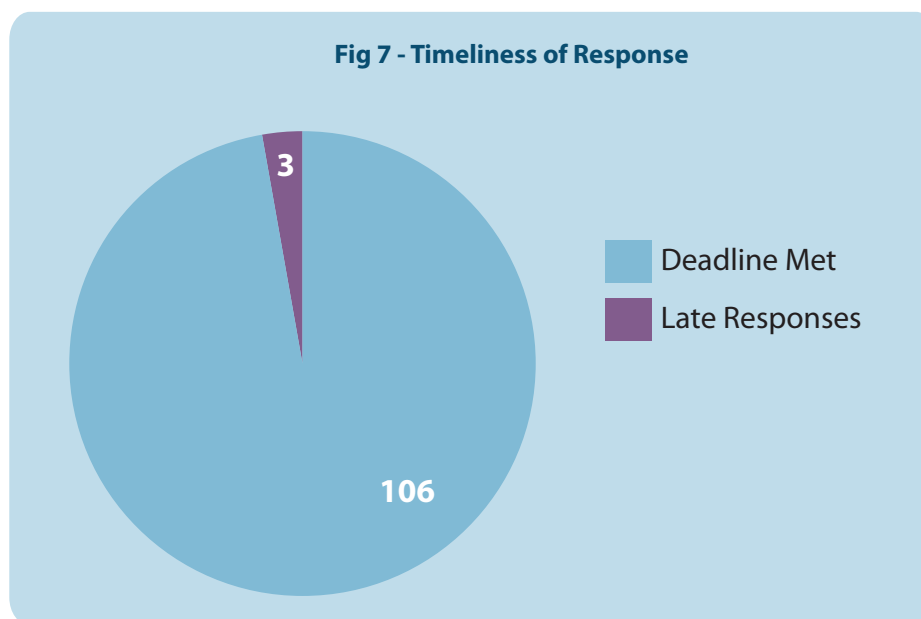
A total of 75 exemptions/exceptions were applied to 52 requests. The 'personal information' and 'commercial interests' exemptions were also the top two exemptions applied the previous year.



5.5 Timeliness of Responses

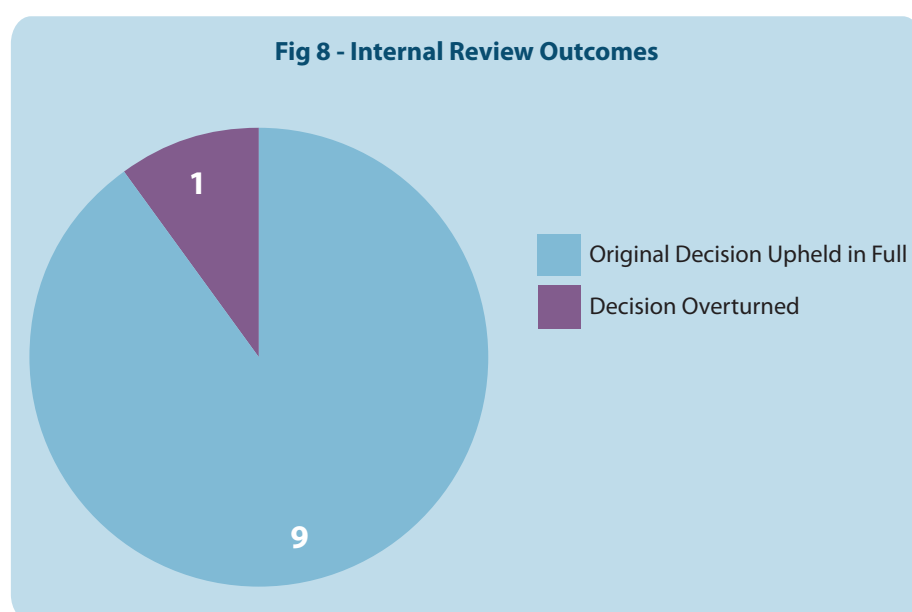
The FOI Act & EIR require public authorities to respond to requests for information promptly and in any event within 20 working days of receipt, with limited exceptions, such as allowing additional time for the consideration of the public interest or dealing with complex and voluminous requests under EIR.

As Figure 7 below shows, in 2014, 97% of requests received by Invest NI were answered within the statutory timeframe of 20 working days. The average time for response was 14 days.



5.6 Internal Reviews

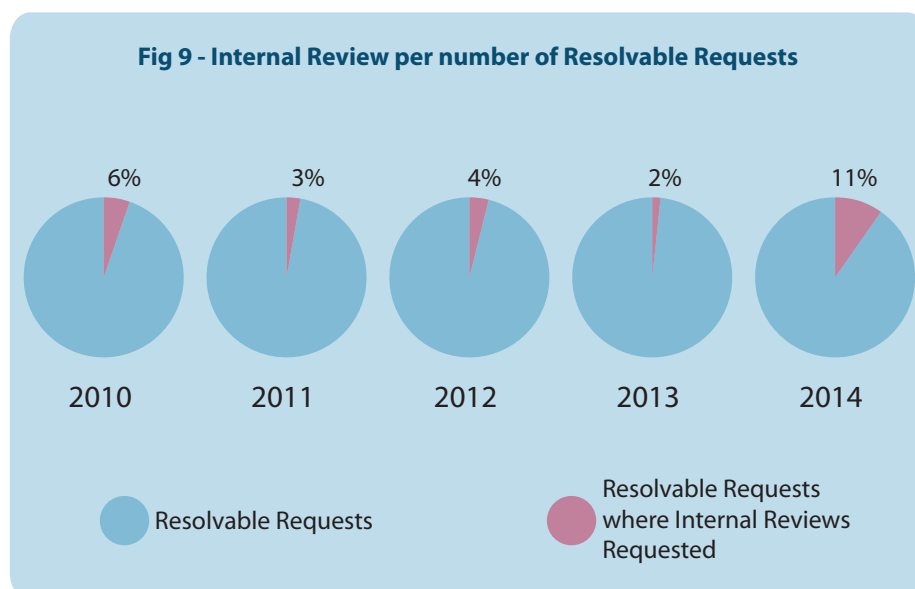
Requesters can ask Invest Northern Ireland for an internal review if they are not content with its initial decision to withhold requested information. This review involves a fresh and thorough examination of the initial decision.



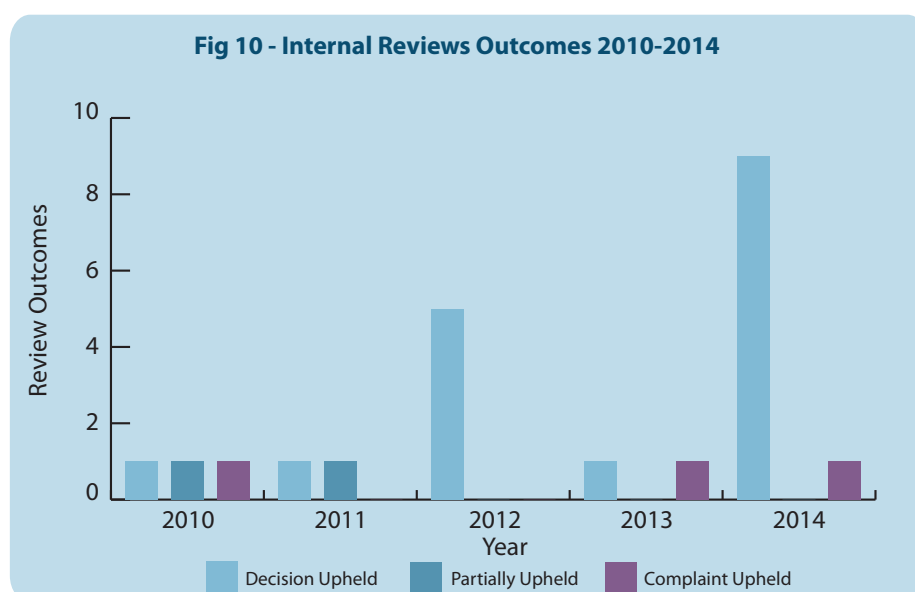
A total of 10 internal reviews were requested by applicants on the grounds that some, or all, of the information requested was withheld. This represents a total of 11% of all resolvable requests where some or all of the information was withheld.

The outcome is known in all cases as Figure 8 above shows, with 90% upholding the original decision and 10% overturning the original decision.

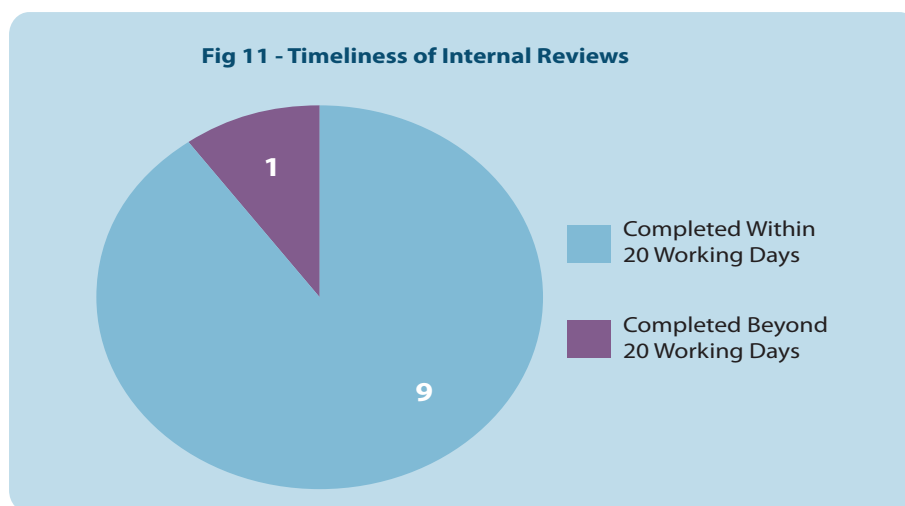
The number of internal reviews initiated in 2014 has increased in comparison to the previous year when a total of 2 internal reviews were requested. Figure 9 below shows the five-year (2010 – 2014) trend.



The percentage of internal reviews resulting in the original decision being upheld has ranged from 33% to 100%: 33% in 2010; 50% in 2011; 100% in 2012; 50% in 2013 and 90% in 2014. Figure 10 below shows this particular trend in outcomes and others.



The FOI Code of Practice issued under section 45 of the FOI Act states that internal review procedures should 'encourage a prompt determination of the complaint'. As Figure 11 shows 9 reviews were completed within 20 working days. The average time to complete an internal review was 13 days.



5.7 Appeals to the Information Commissioner

If a requester has obtained an internal review of a response by Invest Northern Ireland to a FOI request, but is still not satisfied with the outcome, he or she can make a formal appeal to the Information Commissioner's Office (ICO).

The ICO is the independent regulator of public authorities in their handling of information requests. Upon receipt of a complaint, it may investigate and may then issue a Decision Notice. A Decision Notice is the Commissioner's final view on whether or not the public authority has complied with the FOI Act or EIR, and on what action it needs to take.

Invest NI has not been made aware of any appeals to the Information Commissioner's Office during this reporting period.

5.8 Appeals to the Information Tribunal

The Information Tribunal hears appeals as a result of decision notices issued by the Information Commissioner under the FOI Act or the EIRs.

There were no appeals involving Invest Northern Ireland in 2014.

Invest NI's Performance Tables

6. Invest Northern Ireland's Performance Tables

Within the following tables please note:

A single refusal can encompass more than one specific exemption/exception.

Table 1: Number of requests for information received.

Table 2: Category of requests received.

Table 3: Timeliness of responses to requests.

Table 4: Outcome of requests.

Table 5: FOI exemptions & EIR exceptions applied.

Table 6: Outcomes of Internal reviews.

Table 7: Known Appeals to Information Commissioner's Office.

Table 1
Number of requests for information received

QUARTER	1	2	3	4	ANNUAL TOTAL
Total No of Requests Received	40	27	21	21	109
Processed	40	27	21	21	109
On Hold or Lapsed	3	0	0	0	3
Still Being Processed	0	0	0	0	0
Withdrawn	0	2	0	1	3

Table 2
Category of requests received

QUARTER	1	2	3	4	ANNUAL TOTAL
Business	20	11	8	3	42
Campaigning Group	2	0	0	0	2
Media	0	1	3	4	8
Member of the Public	17	12	8	13	50
Public Representative	0	1	2	0	3
Researcher	0	1	0	1	2
Solicitor	1	1	0	0	2

Table 3
Timeliness of responses to requests

QUARTER	1	2	3	4	TOTAL ANNUAL
Total Received Excluding On Hold, Lapsed or Withdrawn	37	25	21	20	103
Deadline Met	36	25	20	19	100
Permitted Extension	0	0	0	0	0
Late Response	1	0	1	1	3

Table 4
Outcome of requests

QUARTER	1	2	3	4	ANNUAL TOTAL
Total Number of Requests Received	40	27	21	21	109
On Hold or Lapsed	3	0	0	0	3
Still Being Processed	0	0	0	0	0
Withdrawn	0	2	0	1	3
Total Number of Requests Excluding On Hold, Lapsed or withdrawn Still Being Processed	37	25	21	20	109
Number Where Information Not Held	6	1	2	2	11
Total Resolvable Requests	31	24	19	18	92
Information Disclosed in Full	15	9	8	8	40
Partially Disclosed	6	11	11	7	35
Fully Withheld	10	4	0	3	17

Table 5
FOI exemptions & EIR exceptions applied

QUARTER	1	2	3	4	ANNUAL TOTAL
Freedom of Information Exemptions/Environmental Information Exceptions.					
S(12) Fees Regulations (exceeds Appropriate Limit)	0	1	0	2	3
S(14) Vexatious	6	0	0	0	6
S(14) Repeated Request	0	2	0	0	2
S(21) Accessible by other means	0	3	0	0	3
S(22) Intended for Future Publication	2	4	3	1	10
S(36) Effective Conduct of Public Affairs	3	1	3	2	9
S(40) Personal Information	3	6	9	3	21
S(43) Commercial Interests	4	4	6	4	18
Reg 12(5) Confidentiality of commercial or industrial information	0	0	0	1	1
Reg 13 Personal Data	0	1	0	1	2

The table above details the number of times each of the exemptions in sections 21 to 44 or the exceptions in Regulation 12 were cited as the reason for refusal. It should be noted that a single refusal can encompass more than one specific exemption/exception.

Table 6
Outcomes of Internal Reviews

QUARTER	1	2	3	4	ANNUAL TOTAL
Internal Reviews					
Total Number of Reviews	5	2	0	3	10
Number Where Outcome Known	5	2	0	3	10
Original Decision Upheld in Full	4	2	0	3	9
Original Decision Upheld in Part	0	0	0	0	0
Original Decision Overturned	1	0	0	0	1

Table 7
Known Appeals to Information Commissioner's Office

Appeals to the Information Commissioner	QTR 1	QTR 2	QTR 3	QTR 4	ANNUAL TOTAL
Total Number of Known Appeals (calendar yr to date)	0	0	0	0	0
Number Where Outcome Known					
Original Decision Upheld in Full					
Original Decision Upheld in Part					
Complaint Upheld					
Informal Resolution					

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