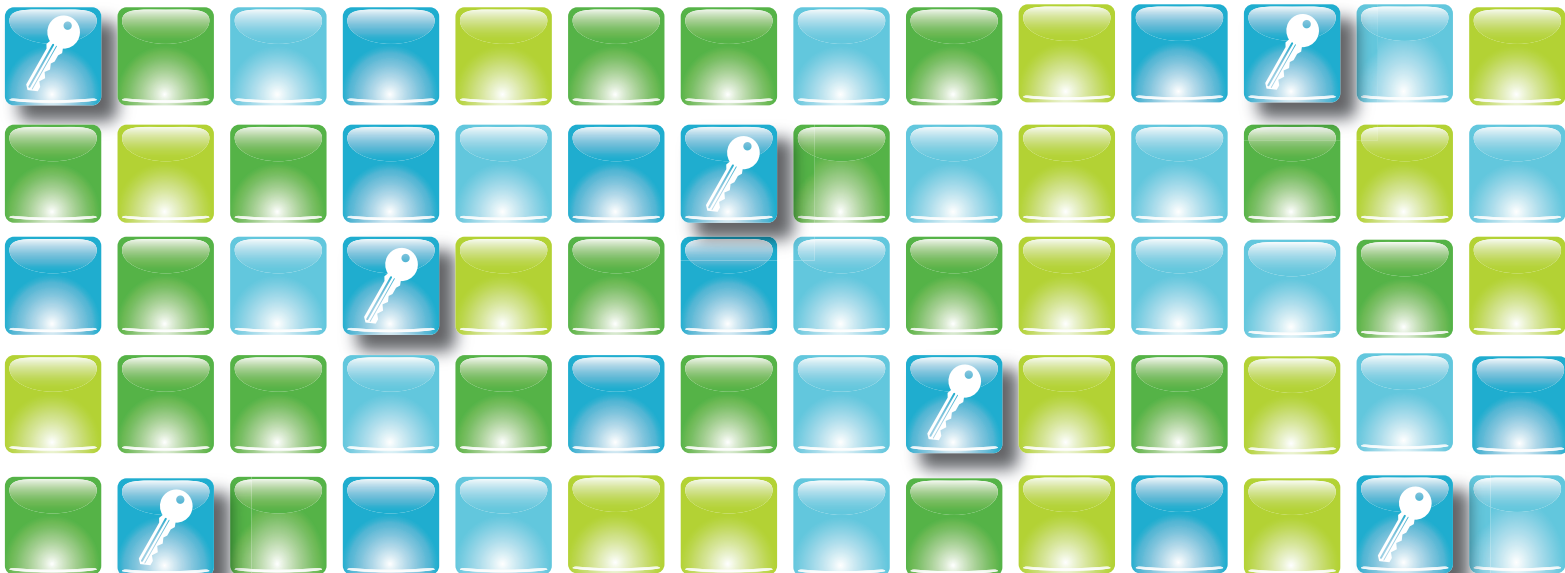


# FOI ANNUAL REPORT 2008



A summary of the Fourth Year of the Freedom of Information Act  
in Invest Northern Ireland

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# Introduction

## 1. Introduction

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

Under the FOI Act, anyone, anywhere in the world may request information from a public authority which has functions in England, Wales and/or Northern Ireland. Scotland is covered by the Freedom of Information (Scotland) Act 2002.

The FOI Act confers two statutory rights on applicants:

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

This report has been produced in line with the recommendations of the Ministry of Justice and as such 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 Freedom of Information Act, not just central Government.

This annual report provides information about the handling of all 'non-routine' information requests (Section 3 gives a definition of a non-routine request) processed under the FOI Act or EIRs, received by Invest Northern Ireland over the period 1 January 2008 to 31 December 2008.

The report also contains a review of FOI developments during 2008. It is the first such publication compiled by the Information Governance Team in Invest Northern Ireland using statistical information gathered on each request during the reporting period.

The report assesses the performance of Invest Northern Ireland in handling requests made under the FOI Act, including those handled under EIRs. As part of the assessment process Invest NI will now produce quarterly reports containing data on how requests have been handled during the period. Future quarterly reports and annual reports will be available on the Invest NI website and can be found at:

[www.investni.com](http://www.investni.com)

# Executive Summary

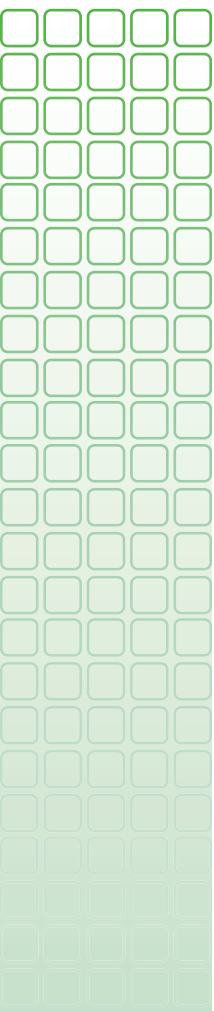
## 2. Executive Summary

This report comprises three parts:

The **first part** sets out Invest Northern Ireland's performance during calendar year 2008 in handling requests for information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

Key findings include:

- In 2008, Invest Northern Ireland received a total number of 72 non-routine requests handled under the FOI Act and the EIRs – a 25% increase on the number received in 2007.
- In 2008, 46% of all requests received were submitted by members of the public, followed by businesses with 31%. The media were responsible for 8% of requests.
- 99% of requests received a substantive response within the 20 working day limit. One request was outside the required period by one day.
- 70% of “resolvable” requests (those where it was possible to give a substantive decision on whether to release the information being sought) were granted in full in 2008. 4% of resolvable requests resulted in the information being fully withheld.
- 14 requests received during 2008 were refused, either in full or in part, where one or more exemption or exception was applied.
- The most commonly applied exemptions were under section 40 (personal information) and section 43 (commercial interests).
- A total of 2 internal reviews were requested in relation to information requests received in 2008, on the grounds that some or all of the requested information was withheld.
- In 50 % of internal review cases the original decision was changed.
- There were no appeals made to the Information Commissioner's Office, that Invest NI has been made aware of, relating to the refusal of information requests in 2008.



The **second part** of the report documents FOI developments during 2008. The issues covered are:

- New Model Publication Scheme.

The **third part** of the report comprises seven performance tables. These provide statistical information on the volume of requests received by Invest Northern Ireland:

Table 1: Number of requests

Table 2: Category of requester

Table 3: Response timeliness

Table 4: Outcome of requests

Table 5: Exemptions and exceptions applied to requests when withholding information

Table 6: Internal review outcomes; and

Table 7: ICO appeal outcomes

# 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 conditions):

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

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

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

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

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

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

Invest Northern Ireland supply large amounts of information, both on request and proactively, as an established and routine part of their business. This includes information released in the form of leaflets, correspondence exchanges, reports and other published material, and through websites and 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 have received. Essentially, this means that statistics recorded only count 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 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. Which is a request for information that is not already reasonably accessible to the applicant by other means;

**and**

3.

(i) Which results in the release of one or more documents (in any media) or inclusion of extracts of documents in the information released;

**or**

(ii) Results in information being withheld under an exemption or exception from the right of access (either the FOI Act the EIRs);

**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 Structure

Invest Northern Ireland is Northern Ireland's economic development agency. Our overall goal is to help create wealth for the benefit of the whole community by strengthening the economy and helping it grow. It is a global organisation committed to improving the international competitiveness of Northern Ireland businesses.

Headquartered in Bedford Square, Belfast, we deliver our services through a network of eight offices in Northern Ireland and 13 offices worldwide.

We operate under the management of an independent Board, which is appointed by the Minister responsible for the Department of Enterprise, Trade and Investment (DETI).

Invest Northern Ireland's Chief Executive reports to the Board and is responsible for the daily management of the agency. A Senior Management Team deals with the ongoing delivery of the agency's programmes and services.

The management team is split into four operating groups spanning all business disciplines. Details can be found on our website:

[http://www.investni.com/index/about/structure/management\\_and\\_divisions.htm](http://www.investni.com/index/about/structure/management_and_divisions.htm)

For the purpose of statistical reporting on FOI requests the Group structure is noted below:

Clients Group and Business International	(CGBI)
Clients Group and Entrepreneurship	(CGE)
Innovation and Capability Development Group	(ICD)
Corporate Services Division	(CS)

This is further broken down by divisional teams as follows:

Transport, Construction & Tourism Division	(TCT)
Engineering & Business Services Division	(EBS)
International Investment Division	(II)
Life Sciences and Creative and Design Division	(LSCD)
Food Division	(Food)
Local Economic Development Division	(LED)
Innovation, Research, Design & Technology Division	(IRDT)
Trade Development Services Division	(TDS)
Business Improvement Services	(BIS)
Technology & Process Development Division	(TPD)



Corporate Communications & Marketing Unit	(CCMU)
Corporate Finance Appraisal Advisory Division	(CFAAD)
Finance	(Fin)
Human Resources	(HR)
Information Technology	(IT)
Property Solutions Unit	(PSU)
Strategic Management and Planning Division	(SMP)

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 Corporate Services Group, namely the Information Governance Team within the Strategic Management and Planning Division.

## 4.2 Organisational Responsibilities

Invest Northern Ireland is a non-Departmental Public Body (NDPB) whose sponsor Department is the Department of Enterprise, Trade and Investment (DETI).

**Invest Northern Ireland is deemed as a public authority under the FOI Act. This means that it is individually responsible for handling requests for information.**

As required by the FOI Act, Invest Northern Ireland has produced a publication scheme. A publication scheme 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 Northern Ireland's publication scheme can be found on its website. This can be accessed via the following web addresses / links:


[http://www.investni.com/index/termsandconditions/freedom\\_of\\_information.htm](http://www.investni.com/index/termsandconditions/freedom_of_information.htm)

## 4.3 Information Governance Team Responsibilities

The Information Governance team has responsibility for the provision of advice and guidance to Invest Northern Ireland in relation to the FOI Act, the EIRs and the Data Protection Act 1998 (DPA).

Its main functions in relation to access to information are:

- Overseeing, coordinating, advising and supporting Invest Northern Ireland in their compliance with access to information legislation.
- Allocating requests received centrally to the relevant Division within Invest NI to prepare response.
- Issuing guidance and encouraging best practice in relation to request handling.

- 
- Managing a FOI Request Tracking and Monitoring system on behalf of Invest Northern Ireland.
  - Reporting on trends and significant FOI developments to Management, the Chief Executives Office and the Board on a regular basis.
  - Publishing quarterly statistics and an Annual Report on the FOI performance of Invest Northern Ireland.
  - Overseeing Invest NI compliance with the ICO new model publication scheme contained on Invest NI's website.

# Invest NI's Performance

## 5. Invest Northern Ireland's Performance

### 5.1 Volume of Requests

Invest Northern Ireland received a total of 72 FOI and EIR requests for information during 2008, the fourth year of operation of the FOI Act, since it came into full effect on 1 January 2005. This represents a 25% increase on the 54 requests received in 2007, bringing the number of requests received to the highest level since the Act was introduced in 2005.

Figure 1 below details the annual total number of requests received by Invest Northern Ireland since the FOI Act and EIR came fully into force at the beginning of 2005.

**Fig 1 - Total Number of Requests Received 2005-2008**

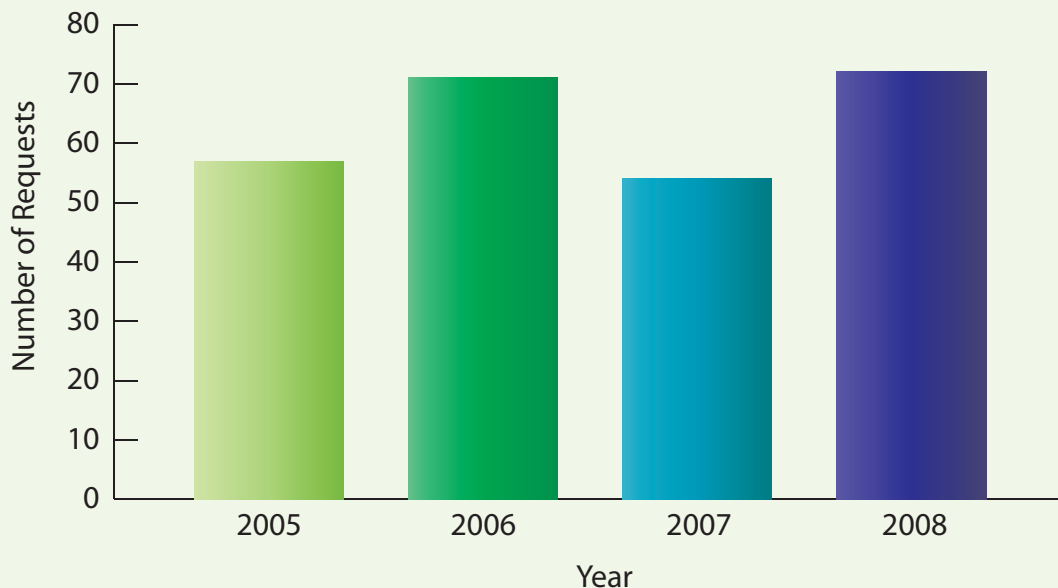
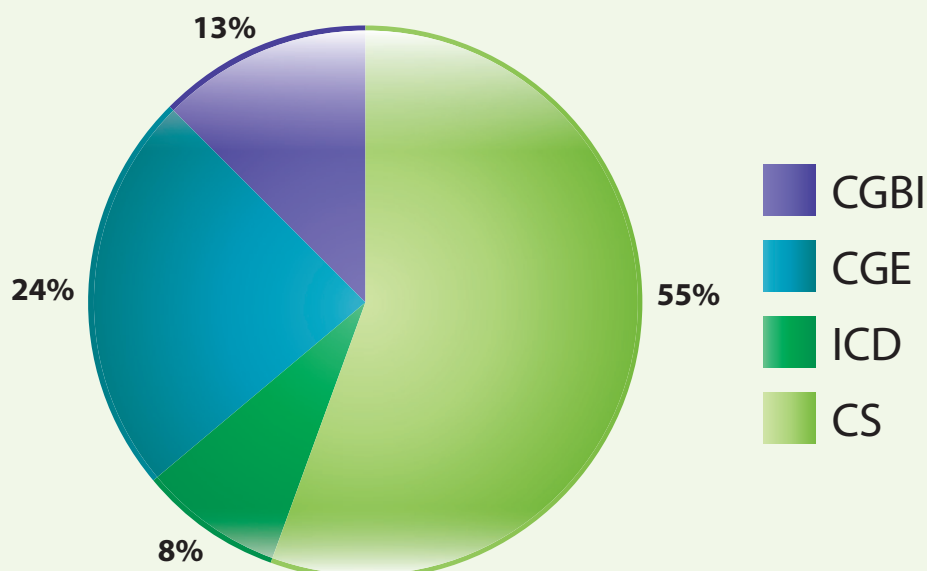


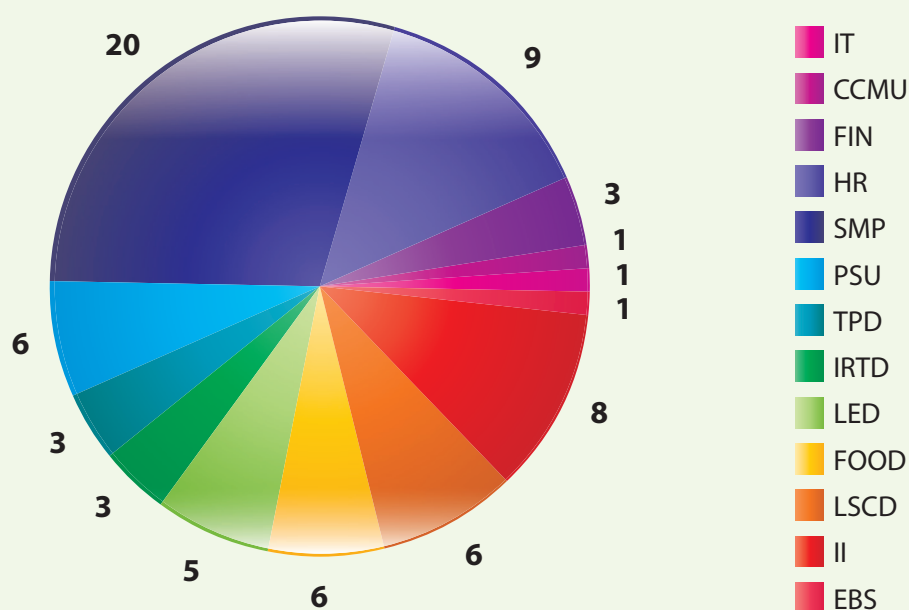
Figure 2 below shows the percentage totals of the overall number of requests for information received by Invest Northern Ireland in 2008 as dealt with by Group.

**Fig 2 - Volume of Requests by Group in 2008**



The majority of the requests for information were dealt with by the Corporate Services Group (55%). Within this Group the majority of requests were dealt with by the Strategic Management and Planning Division (28%). The breakdown of requests dealt with by Division is shown below:

**Fig 3 - Volume of Requests by Division in 2008**



Please note that TCT, TDS, BIS and CFAAD did not receive any requests in 2008 and that the figures in the pie chart above are actual requests received and not percentages.

## 5.2 Category of Requester

In line with Ministry of Justice recommendations Invest Northern Ireland assign one of the following categories to each request: Business, Campaigning Group, Media, Member of the Public, Researcher, Public Representative, or Solicitor.

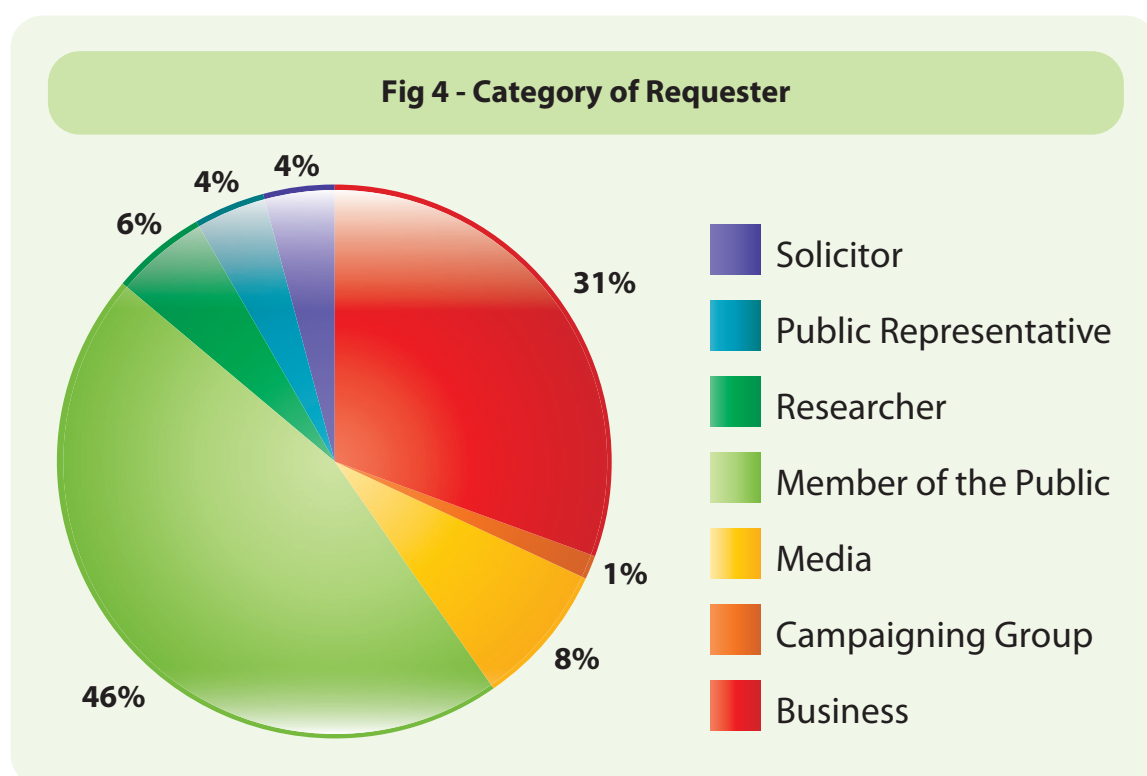
However, it is sometimes not possible to determine accurately the category of requester for every request, though these instances are rare. Using the information that has been provided, conclusions have been drawn regarding the origin of the requests submitted in 2008.

As Figure 4 below shows, the largest number of requests to Invest Northern Ireland was received from Members of the Public (46%).

The second largest number of requests was received from Businesses (31%).

The third largest number of requests came from members of the Media (8%).

The remaining requests were received from Researchers (6%) and Public Representatives and Solicitors (both 4%), with the smallest number of requests being received from Campaigning Groups (1%).

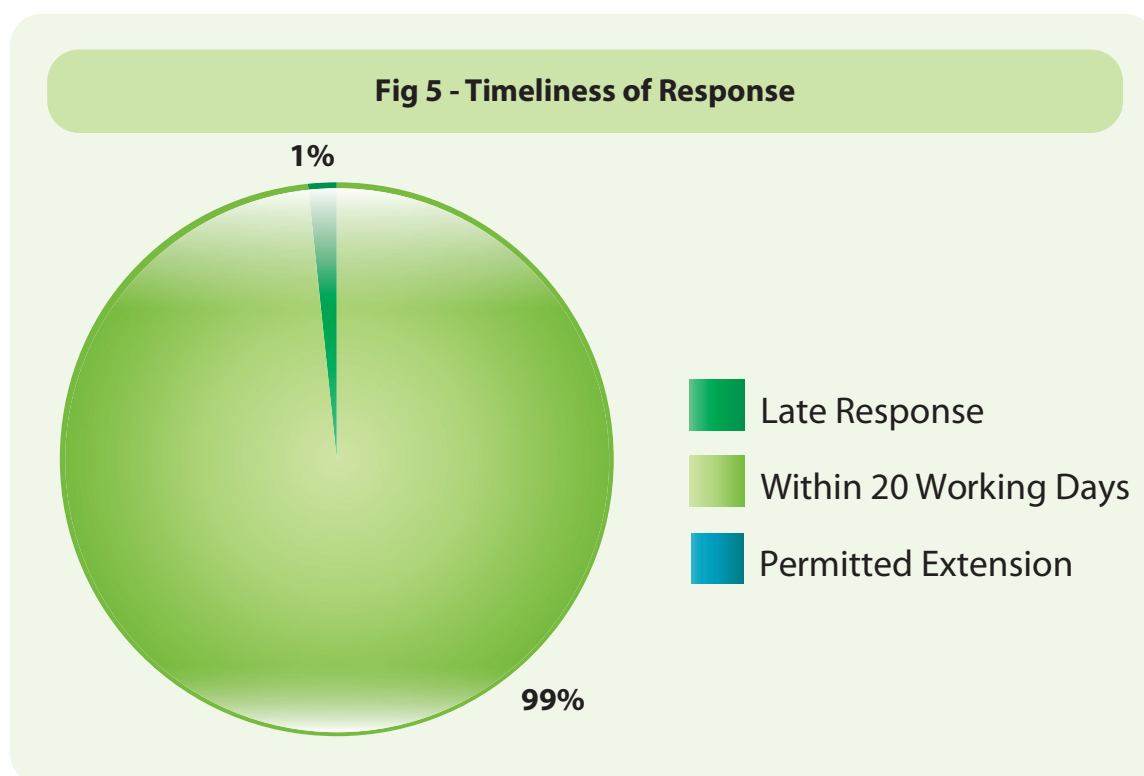


High profile requests – those received from Campaigning Groups, the Media, and Public Representatives - together account for 13% of all requests received in 2008.

### 5.3 Timeliness of Responses

The FOI Act requires public authorities to respond to written 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.

As Figure 4 below shows, in 2008 99% of requests received by Invest Northern Ireland were answered 'in time' within 20 working days. 1% of requests, representing 1 request, was responded to beyond the 20 working days, without a permitted extension. This request was responded to one day outside this period.



This compares favourably with both the Northern Ireland governmental departments and the Whitehall Departments of State who in 2008 responded to 92% and 76% of requests within 20 working days respectively.

## 5.4 Outcome of Requests

Of the 72 requests for information reported in 2008, 89% (64) were processed. 11% (8) of requests were either 'on hold or lapsed' at the time of reporting and none of the requests were 'still being processed'.

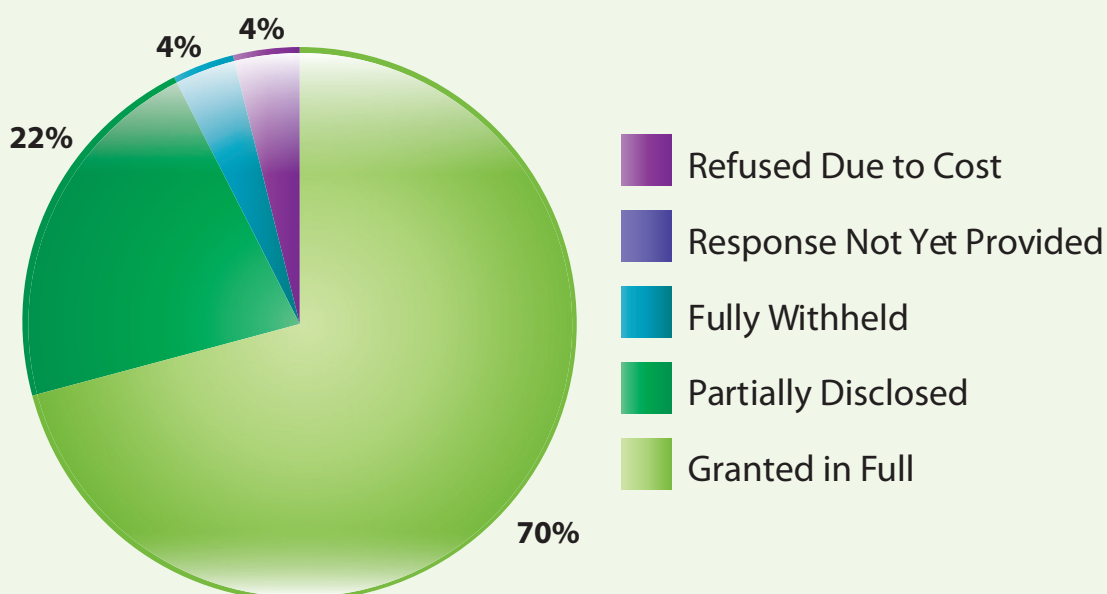
Requests may be 'on hold or lapsed' if the request needed further clarification in order to identify the information being sought, or the fee regulations apply and an applicant has been requested to resubmit the request in part to bring the response within the appropriate limit.

Requests 'still being processed' may be going through the public interest test process.

Of the 64 requests processed or still to be processed, 14% (9) sought information that was 'not held' by Invest Northern Ireland. The remaining 55 requests were classed as 'resolvable', in that it was possible to give a substantive decision on whether to disclose the information sought.

As Figure 5 shows, in 70% (39) of resolvable requests the information was disclosed in full, in 22% (12) of cases the information was partially disclosed; and in 4% (2) of cases the information was fully withheld. In 4% (2) of resolvable requests the information was refused due to cost, and in 0%, the response had yet to be provided.

**Fig 6 - Outcomes of Requests**



The annual disclosure trend for Invest Northern Ireland, as shown in the table below, increased significantly over the last four years as shown:

	2005	2006	2007	2008
Disclosed in Full	40%	54%	55%	70%
Partially Disclosed	35%	29%	40%	22%
Fully Withheld	20%	17%	5%	4%
Refused Due to Cost	5%	0%	0%	4%
In Progress	0%	0%	0%	0%

In 2008 92% of resolvable requests resulted in all or some of the requested information being released. This is a slight increase on 2007 when 90% of resolvable requests resulted in all or some of the requested information being released.



## 5.5 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.

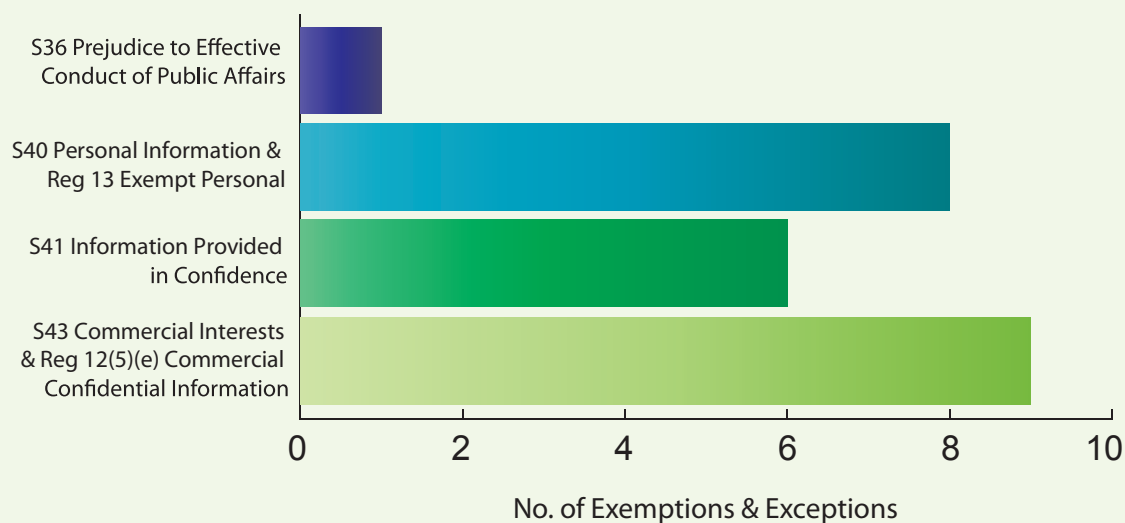
One or more of the exemptions/exceptions were applied to 26% (14) of the total number of resolvable requests. This is a decrease on the previous year when exemptions / exceptions were applied to 45% (18) of the total number of resolvable requests. In total, exemptions relied on under the FOI Act were engaged in 13 cases and exceptions under the EIR applied on 1 occasion. This represents a decrease in the application of exemptions, as these were applied in 17 cases in 2007, and no change in the application of exceptions, as these were relied upon in 1 case in 2007.

The most commonly applied exemption, as Figure 8 below shows, was in relation to commercial information which was used in 17% of resolvable requests. FOI Section 43 (commercial interests) was applied in 7 requests. Under EIR Regulation 12(5)(e) in relation to information that impinges on confidentiality of commercial or industrial information was used once.

This was followed by personal information which was withheld in 15% of resolvable requests. FOI Section 40 (personal information) was applied to 7 requests where exemptions were applied. Regulation 13 in relation to personal data under EIR was used once.

FOI Section 41 (information provided in confidence) was applied in 11% of resolvable requests (6), where exemptions were applied. FOI Section 36 (prejudice to effective conduct of public affairs) was used in 2% of resolvable requests (1), where exemptions were applied.

**Fig 8 - Use of Exemptions & Exceptions**

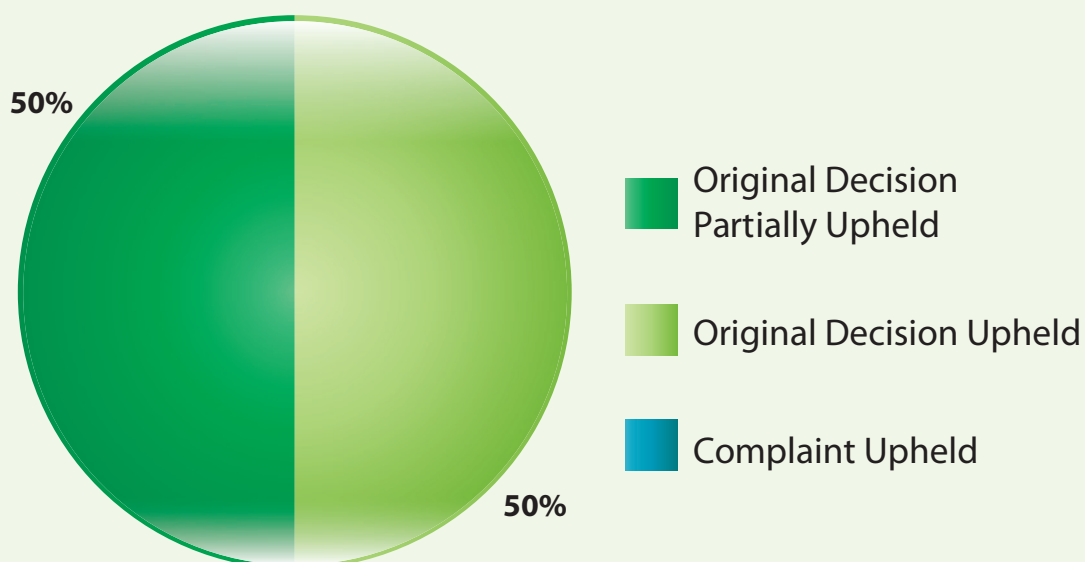


Overall, four of the Section 21 to 44 exemptions were used at least once in 2008 compared to eight in 2007. In 2008 only two exceptions under the Environmental Information Regulations were relied upon compared to four in 2007. A total of 24 exemptions/exceptions were applied to 14 requests. The 'personal information' and 'commercial interests' exemptions were also the top two exemptions applied the previous year.

## 5.6 Internal Reviews

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

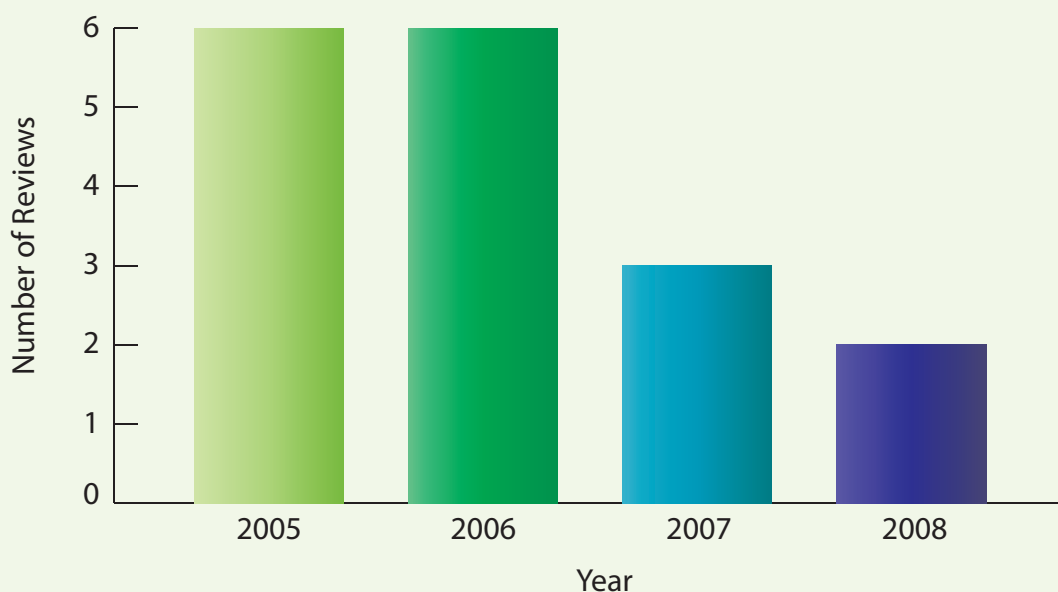
**Fig 9 - Internal Review Outcomes**



Within Invest Northern Ireland a total of 2 internal reviews were initiated on requests received during 2008, on the grounds that some, or all, of the information requested was withheld. The outcome is known in both of these cases as Figure 9 above shows, with 50% upholding the original decision; 50% partially upholding the original decision; and 0% upholding the complaint resulting in the original decision being overturned.

The number of internal reviews initiated in 2008 has decreased slightly in comparison to the previous year when a total of 3 internal reviews were reported. Figure 10 below shows the four-year (2005 – 2008) trend.

**Fig 10 - Total Number of Internal Reviews Initiated 2005-2008**



The percentage of internal reviews resulting in the original decision being upheld has ranged from 50% to 83%: 67% in 2005; 83% in 2006; 67% in 2007; and 50% in 2008. Figure 11 below shows this particular trend in outcomes and others.

**Fig 11 - Internal Reviews Outcomes 2005-2008**



## 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.

In 2008, there were no appeals to the ICO relating to cases in which Invest Northern Ireland had refused information, that Invest NI have been made aware of.

## 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 2008.

# FOI Developments during 2008

## 6. FOI Developments in Invest Northern Ireland during 2008

### 6.1 New Model Publication Scheme

Flowing from its Publication Scheme Development and Maintenance Initiative, the Information Commissioner's Office introduced a new model publication scheme for all non departmental public bodies to adopt and operate from 1 January 2009 (as existing schemes were due to expire on 31 December 2008).

One of the main drivers behind this initiative was the desire to transfer responsibility for proactively publishing information from the FOI practitioner to business areas across organisations, thus embedding the principles of early and voluntary publication.

The Commissioner published a 'Definition Document for Northern Ireland Non Departmental Public Bodies' which set out in some detail what his minimum expectations are for the proactive release of information for such bodies.

During 2008 Invest NI reviewed the information it routinely puts into the public domain to ensure it is compliant with the Definition Document. This has resulted in the new scheme being prepared to 'go live' from January 2009. Full details can be found in the [Publication Scheme Guidance Definition](#) found on the website.

Most of the information Invest NI makes routinely available can be accessed through the website by using the search facility or searching the A-Z of publications. Such information is continually updated. In circumstances where information cannot be found through the search engine and it is indicated in the definition document that the information is routinely available this may be because the information cannot be loaded onto our website. The Invest NI [Publication Guide](#) can be consulted for relevant contact details for applicants to ask for the information to be provided directly.

# Invest NI Performance Tables

## 7. Invest Northern Ireland's Performance Tables

### Table 1:

Number of requests for information received, during 2008, by Group.

### Table 2:

Category of requests received during 2008, by Group.

### Table 3:

Timeliness of responses to requests for information received during 2008, by Group.

### Table 4:

Outcome of requests for information received during 2008, by Group.

### Table 5:

FOI exemptions & EIR exceptions applied when withholding information during 2008, by Group.

### Table 6:

Outcomes of Internal reviews concerning requests for information received during 2008, where the requested information was initially withheld, by Group.

### Table 7:

Known Appeals to Information Commissioner's Office concerning the handling of requests for information received during 2008.

### Within the following tables please note:

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

### Table Key:

Clients Group and Business International (CGBI)

Clients Group and Entrepreneurship (CGE)

Innovation and Capability Development Group (ICD)

Corporate Services Division (CS)

**Table 1**

Number of requests for information received by Invest Northern Ireland by Group during 2008

	CGBI	CGE	ICD	CS	TOTALS
Total No of Requests Received	9	17	6	40	72
Processed	8	15	5	35	63
On Hold or Lapsed	1	2	1	5	9
Still Being Processed	0	0	0	0	0

**Table 2**

Category of requests received by Invest Northern Ireland by Group during 2008

	CGBI	CGE	ICD	CS	TOTALS
Total No of Requests Received	9	17	6	40	72
Business	2	9	1	10	22
Campaigning Group	0	0	0	1	1
Media	1	0	1	4	6
Member of the Public	6	7	3	17	33
Public Representative	0	1	1	1	3
Researcher	0	0	0	4	4
Solicitor	0	0	0	3	3

**Table 3**

Timeliness of responses to requests for information received by Invest Northern Ireland during 2008 by Group

	CGBI	CGE	ICD	CS	TOTALS
Total Received Excluding On Hold or Lapsed	8	15	5	35	63
Deadline Met	8	14	5	35	62
Permitted Extension	0	0	0	0	0
Late Response	0	1	0	0	1

**Table 4**

Outcome of requests for information received by Invest Northern Ireland during 2008 by Group

	CGBI	CGE	ICD	CS	TOTALS
<b>Total Number of Requests Received</b>	<b>9</b>	<b>17</b>	<b>6</b>	<b>40</b>	<b>72</b>
On Hold or Lapsed	1	2	1	5	9
Still Being Processed	0	0	0	0	0
<b>Total Number of Requests Excluding On Hold or Lapsed &amp; those Still Being Processed</b>	<b>8</b>	<b>15</b>	<b>5</b>	<b>35</b>	<b>63</b>
Number Where Information Not Held	3	0	0	7	10
<b>Total Resolvable Requests</b>	<b>5</b>	<b>15</b>	<b>5</b>	<b>28</b>	<b>53</b>
Information Disclosed in Full	4	8	2	25	39
Partially Disclosed	1	7	3	1	12
Fully Withheld	0	0	0	2	2
Refusal Due to Cost*	0	0	0	2	2

\*Included in the "On Hold or Lapsed" category.

**Table 5**

FOI exemptions & EIR exceptions applied by Invest Northern Ireland when withholding information during 2008 by Group

	CGBI	CGE	ICD	CS	TOTALS
<b>Freedom of Information Exemptions/Environmental Information Exceptions.</b>					
S(36) Prejudice to Effective Conduct of Public Affairs	0	0	0	1	1
S(40) Personal Information	0	5	2	2	9
S(41) Information Provided in Confidence	1	2	1	0	4
S(43) Commercial Interests	0	4	3	1	8
Reg 12(5)(e) Confidentiality of Commercial or Industrial Information	0	1	0	0	1
Reg 13 Personal Data	0	1	0	0	1

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 concerning requests for information received by Invest Northern Ireland during 2008, where the requested information was initially withheld, by Group

	CGBI	CGE	ICD	CS	TOTALS
<b>Internal Reviews</b>					
Total Number of Reviews (calendar year to date)	0	0	0	0	0
Number Where Outcome Known	0	0	0	0	0
Original Decision Upheld in Full	0	1	0	0	1
Original Decision Upheld in Part	0	0	0	1	1
Complaint Upheld	0	0	0	0	0

**Table 7**

Known Appeals to Information Commissioner's Office concerning the handling of requests for information received by Invest Northern Ireland during 2008

	CGBI	CGE	ICD	CS	TOTALS
<b>Appeals to the Information Commissioner</b>					
Total Number of Known Appeals (calendar year to date)	0	0	0	0	0
Number Where Outcome Known	0	0	0	0	0
Original Decision Upheld in Full	0	0	0	0	0
Original Decision Upheld in Part	0	0	0	0	0
Complaint Upheld	0	0	0	0	0
Informal Resolution	0	0	0	0	0

