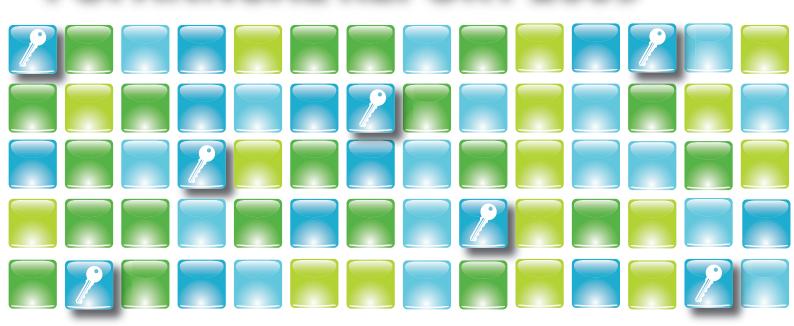


# **FOI ANNUAL REPORT 2009**



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



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#### 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 2009 to 31 December 2009.

The report also contains a review of FOI developments during 2009. It is the second 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/index/termsandconditions/freedom\_of\_information/foi\_annual\_reports\_and\_statistics.htm



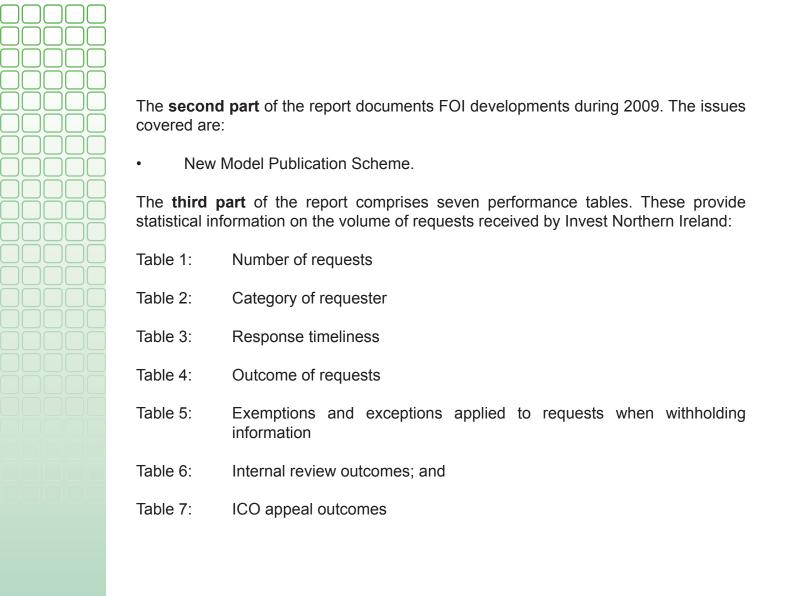
## 2. Executive Summary

This report comprises three parts:

The **first part** sets out Invest Northern Ireland's performance during calendar year 2009 in handling requests for information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

## Key findings include:

- In 2009, Invest Northern Ireland received a total number of 76 non-routine requests handled under the FOI Act and the EIRs a 5% increase on the number received in 2008 (72).
- In 2009, 45% of all requests received were submitted by members of the public, followed by businesses with 30%. The media were responsible for 10.5% of requests.
- 100% of requests received a substantive response within the time frame permitted by the legislation.
- 72% 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 2009. No resolvable requests resulted in the information being fully withheld.
- 28% of resolvable requests received during 2009 were refused in part where one or more exemption or exception was applied.
- The most commonly applied exemptions were under section 43 (commercial interests) and section 40 (personal information).
- A total of 2 internal reviews were requested in relation to information requests received in 2009, on the grounds that some of the requested information was withheld. A further 2 were conducted based on requests received in 2008, making a total of 4 reviews conducted during the calendar year.
- In 25% 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 2009.





## 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 has 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:

#### <u>or</u>

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

#### <u>or</u>

(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;

## <u>or</u>

(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);

### <u>or</u>

(v) Where a search is made for information sought in the request and it is found that none is held.



## 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 organisation's programmes and services.

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

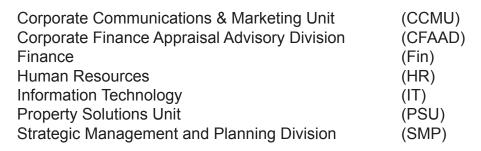
http://www.investni.com/index/about/structure/management and divisions.htm

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)



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

## 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 a 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 76 FOI and EIR requests for information during 2009, the fifth year of operation of the FOI Act, since it came into full effect on 1 January 2005. This represents a 5% increase on the 72 requests received in 2008, 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.

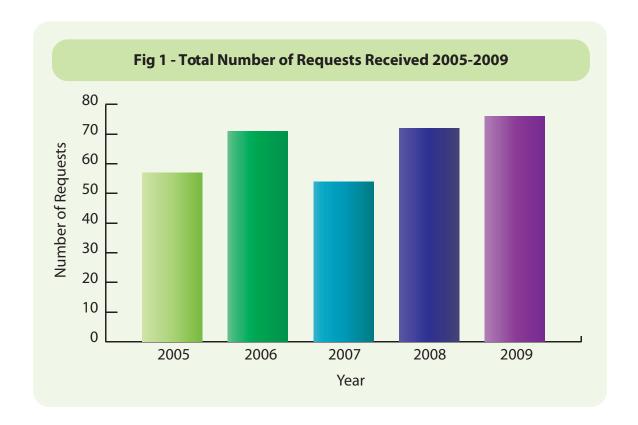
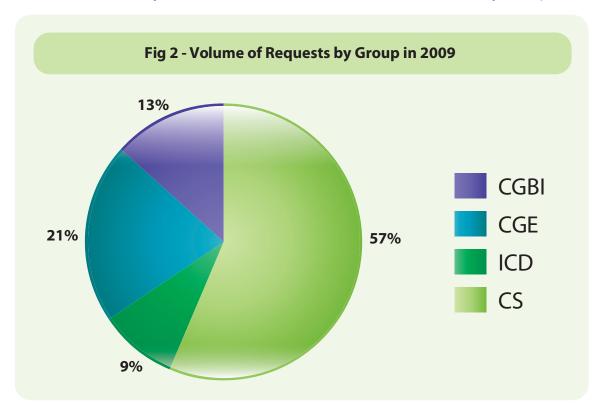
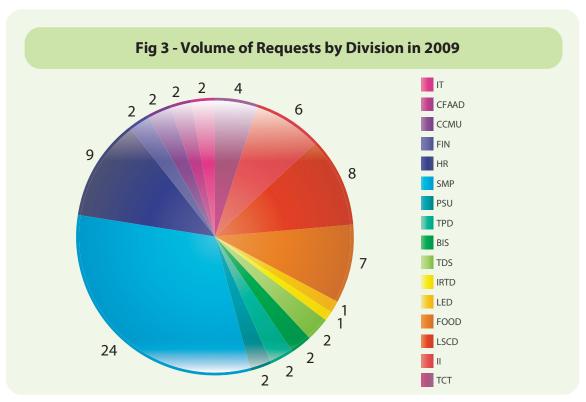


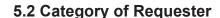
Figure 2 below shows the percentage totals of the overall number of requests for information received by Invest Northern Ireland in 2009 as dealt with by Group.



The majority of the requests for information were dealt with by the Corporate Services Group (57%). Within this Group the majority of requests were dealt with by the Strategic Management and Planning Division (32%). The breakdown of requests dealt with by Division is shown below:



Please note that Engineering and Business Services did not receive any requests in 2009 and that the figures in the pie chart above are actual requests received and not percentages.



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.

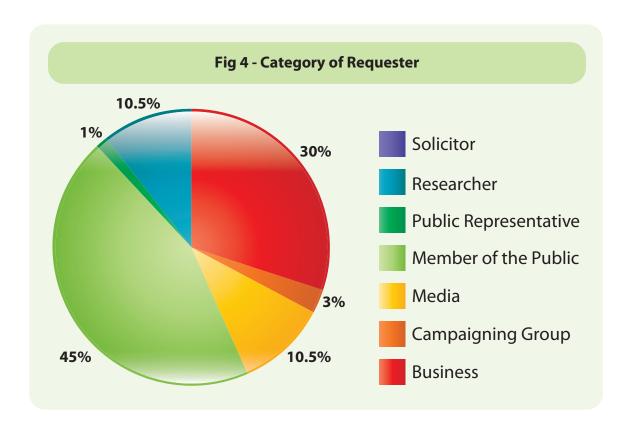
However, it is sometimes not possible to determine accurately the category of requester for every request, though these instances are rare. Using the information that has been provided, conclusions have been drawn regarding the origin of the requests submitted in 2009.

As Figure 4 below shows, the largest number of requests to Invest Northern Ireland was received from Members of the Public (45%).

The second largest number of requests was received from Businesses (30%).

The third largest number of requests came from both members of the Media (10.5%) and Researchers (10.5%).

The remaining requests were received from Campaigning Groups (3%) and Public Representatives (1%). No requests were received from solicitors.

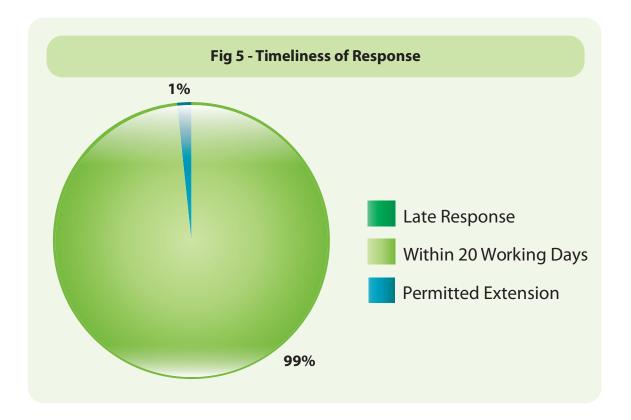


High profile requests – those received from Campaigning Groups, the Media, and Public Representatives - together account for 14.5% of all requests received in 2009. This is an increase of 1.5% on the previous year.

## 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 or dealing with complex and voluminous requests under EIR.

As Figure 5 below shows, in 2009 99% of requests received by Invest Northern Ireland were answered 'in time' within 20 working days. 1% of requests, representing 1 request, was answered following a permitted extension. This resulted in 100% of requests being dealt with "in time".



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.



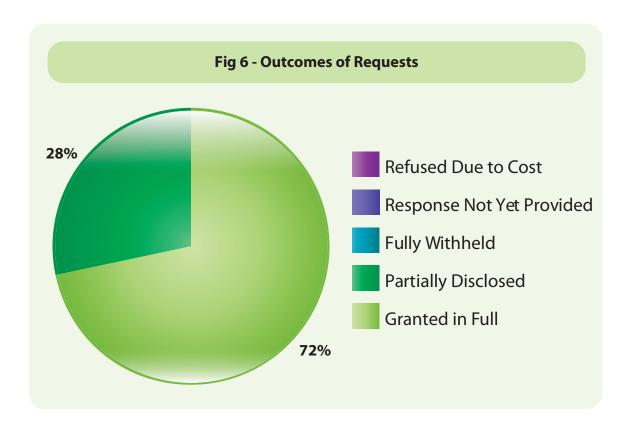
Of the 76 requests for information reported in 2009, 97% were processed. 3% of requests were either 'on hold or lapsed' at the time of reporting and none of the requests were 'still being processed'.

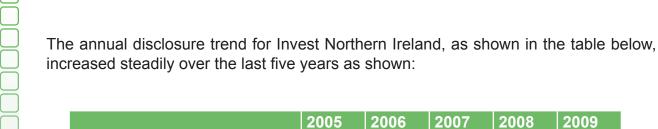
Requests may be 'on hold or lapsed' if the request needed further clarification in order to identify the information being sought, or the fee regulations apply and an applicant has been requested to resubmit the request in part to bring the response within the appropriate limit.

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

Of the 74 requests processed or still to be processed, 4% sought information that was 'not held' by Invest Northern Ireland. The remaining 71 requests were classed as 'resolvable', in that it was possible to give a substantive decision on whether to disclose the information sought.

As Figure 6 shows, in 72% of resolvable requests the information was disclosed in full and in 28% of cases the information was partially disclosed. In 2009 no request for information resulted in the information being fully withheld and no resolvable requests had information refused due to cost.





	2005	2006	2007	2008	2009
Disclosed in Full	40%	54%	55%	70%	72%
Partially Disclosed	35%	29%	40%	22%	28%
Fully Withheld	20%	17%	5%	4%	0%
Refused Due to Cost	5%	0%	0%	4%	0%
In Progress	0%	0%	0%	0%	0%

In 2009 100% of resolvable requests resulted in all or some of the requested information being released. This is an increase on 2008 when 92% of resolvable requests resulted in all or some of the requested information being released.



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

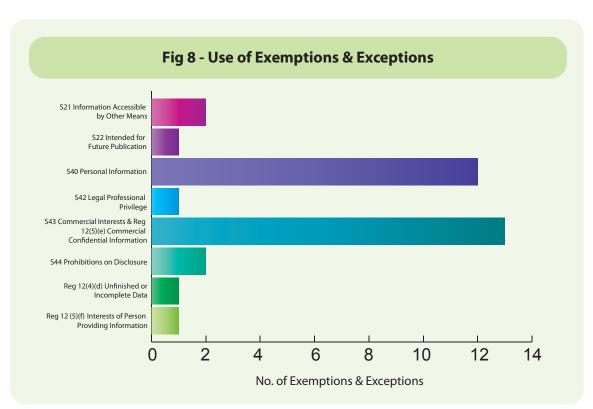
Exemptions are either 'absolute', i.e., no obligation exists under the FOI Act to consider the request for information further, or 'qualified', i.e., the use of the exemption is subject to a public interest test.

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 28% of the total number of resolvable requests. This is an increase on the previous year when exemptions / exceptions were applied to 26% of the total number of resolvable requests. In total, exemptions relied on under the FOI Act were engaged in 16 cases and exceptions under the EIR applied on 4 occasions. This represents an increase in the application of exemptions, as these were applied in 13 cases in 2008, and an increase in the application of exceptions, as these were relied upon in 1 case in 2008.

The most commonly applied exemption, as Figure 8 below shows, was in relation to commercial information which was used in 18% (13) of resolvable requests. FOI Section 43 (commercial interests) was applied in 9 requests. Under EIR Regulation 12(5)(e) in relation to information that impinges on confidentiality of commercial or industrial information was applied 4 times.

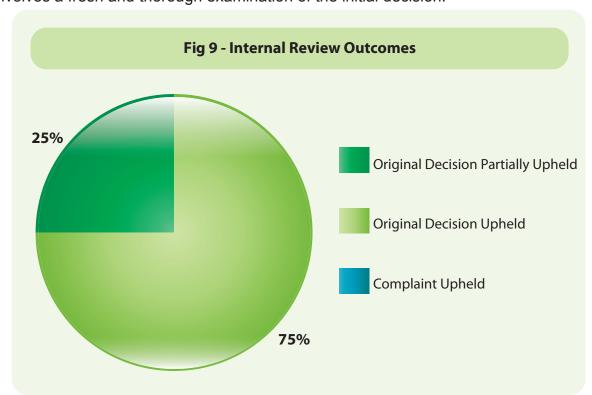
This was followed by personal information which was withheld in 17% (12) of resolvable requests. FOI Section 40 (personal information) was applied to 12 requests where exemptions were applied.



Overall, six of the Section 21 to 44 exemptions were used at least once in 2009 compared to four in 2008. In 2009 three exceptions under the Environmental Information Regulations were relied upon compared to two in 2008. A total of 33 exemptions/exceptions were applied to 20 requests. The 'personal information' and 'commercial interests' exemptions were also the top two exemptions applied the previous year.

### 5.6 Internal Reviews

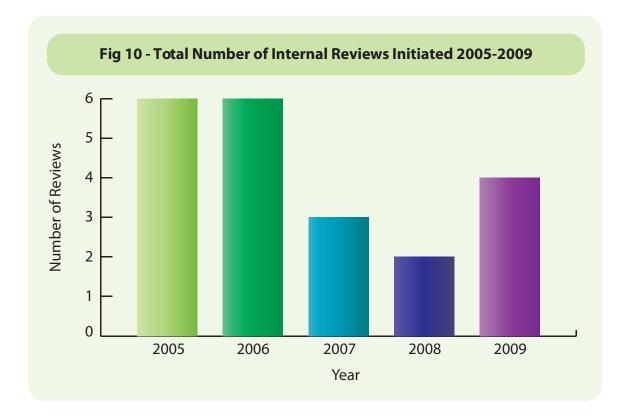
Requesters can ask Invest Northern Ireland for an internal review if they are not content with the public authority's initial decision to withhold requested information. This review involves a fresh and thorough examination of the initial decision.



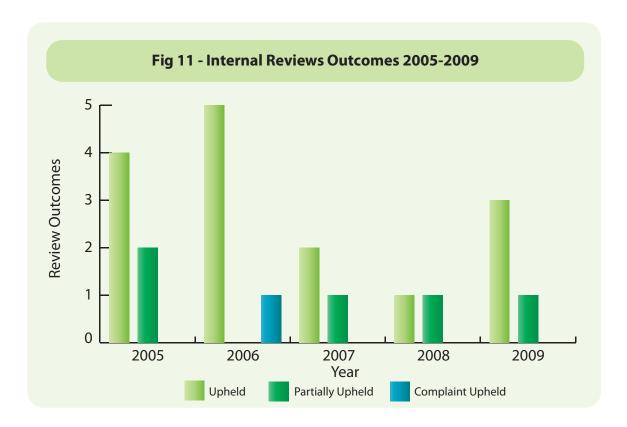
Within Invest Northern Ireland a total of 4 internal reviews were initiated on the grounds that some, or all, of the information requested was withheld. Two of the internal reviews were initiated on requests received during 2008 whilst a further 2 were initiated on requests received during 2009. This represents a total of 3% of all requests received during 2009 and 10% of all resolvable requests where some of the information was withheld.

The outcome is known in all four cases as Figure 9 above shows, with 75% upholding the original decision and 25% partially upholding the original decision. No complaints were upheld which would have resulted in the original decision being overturned.

The number of internal reviews initiated in 2009 has increased slightly in comparison to the previous year when a total of 2 internal reviews were reported. Figure 10 below shows the five-year (2005 - 2009) trend.



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; 50% in 2008 and 75% in 2009. Figure 11 below shows this particular trend in outcomes.



## 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).

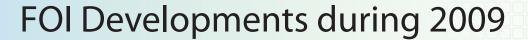
The ICO is the independent regulator of public authorities in their handling of information requests. Upon receipt of a complaint, it may investigate and may then issue a Decision Notice. A Decision Notice is the Commissioner's final view on whether or not the public authority has complied with the FOI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

In 2009, there were no appeals to the ICO relating to cases in which Invest Northern Ireland had refused information, that Invest NI has 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 2009.



## 6. FOI Developments in Invest Northern Ireland during 2009

#### 6.1 New Model Publication Scheme

As a result of 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 the ICO's minimum expectations for the proactive release of information by 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 resulted in the new scheme going live from January 2009. Full details can be found in the <u>Publication Scheme Guidance Definition</u> found on Invest NI's website.

During 2009 this information has been reviewed and kept updated as required.

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 <u>Publication Guide</u> can be consulted for relevant contact details for applicants to ask for the information to be provided directly.



#### 7. Invest Northern Ireland Performance Tables

#### Table 1:

Number of requests for information received, during 2009, by Group.

#### Table 2:

Category of requests received during 2009, by Group.

#### Table 3:

Timeliness of responses to requests for information received during 2009, by Group.

#### Table 4:

Outcome of requests for information received during 2009, by Group.

#### Table 5:

FOI exemptions & EIR exceptions applied when withholding information during 2009, by Group.

#### Table 6:

Outcomes of Internal reviews concerning requests for information received during 2009, 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 2009.

## 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 2009

	CGBI	CGE	ICD	CS	TOTALS
Total No of Requests Received	10	16	7	43	76
Processed	10	15	7	42	74
On Hold or Lapsed	0	1	0	1	2
Still Being Processed	0	0	0	0	0

**Table 2**Category of requests received by Invest Northern Ireland by Group during 2009

	CGBI	CGE	ICD	CS	TOTALS
Total No of Requests Received	10	16	7	43	76
Business	3	8	2	10	23
Campaigning Group	0	2	0	0	2
Media	4	0	0	4	8
Member of the Public	2	5	5	22	34
Public Representative	0	0	0	1	1
Researcher	1	1	0	6	8
Solicitor	0	0	0	0	0

**Table 3**Timeliness of responses to requests for information received by Invest Northern Ireland during 2009 by Group

	CGBI	CGE	ICD	CS	TOTALS
Total Received Excluding On Hold or Lapsed	10	15	7	42	74
Deadline Met	10	14	7	42	73
Permitted Extension	0	1	0	0	1
Late Response	0	0	0	0	0

**Table 4**Outcome of requests for information received by Invest Northern Ireland during 2009 by Group

	CGBI	CGE	ICD	CS	TOTALS
Total Number of Requests Recevied	10	16	7	43	76
On Hold or Lapsed	0	1	0	1	2
Still Being Processed	0	0	0	0	0
Total Number of Requests Excluding On Hold or Lapsed & those Still Being Processed	10	15	7	42	74
Number Where Information Not Held	0	1	0	2	3
Total Bassivable Bassicate	10	14	7	40	71
Total Resolvable Requests			•		
Information Disclosed in Full	7	7	6	31	51
Partially Disclosed	3	7	1	9	20
Fully Withheld	0	0	0	0	0
Refusal Due to Cost*	0	0	0	0	0

<sup>\*</sup>Included in the "On Hold or Lapsed" category.

**Table 5**FOI exemptions & EIR exceptions applied by Invest Northern Ireland when withholding information during 2009 by Group

	CGBI	CGE	ICD	CS	TOTALS	
Freedom of Information Exemptions/Environmental Information Exceptions.						
S(21) Information Accessible by Other Means	0	0	0	2	2	
S(22) Intended for Future Publication	0	0	0	1	1	
S(40) Personal Information	2	3	1	6	12	
S(42) Legal Professional Privilege	0	1	0	0	1	
S(43) Commercial Interests	1	6	1	1	9	
S(44) Prohibitions on Disclosure	0	0	0	2	2	
Reg 12(4)(d) Unfinished or Incomplete Data	0	1	0	0	1	
Reg 12(5)(e) Confidentiality of Commercial or Industrial Information	0	3	0	1	4	
Reg 12(5)(f) Interests of Person Providing Information	0	0	0	1	1	

The table above details the number of times each of the exemptioins 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

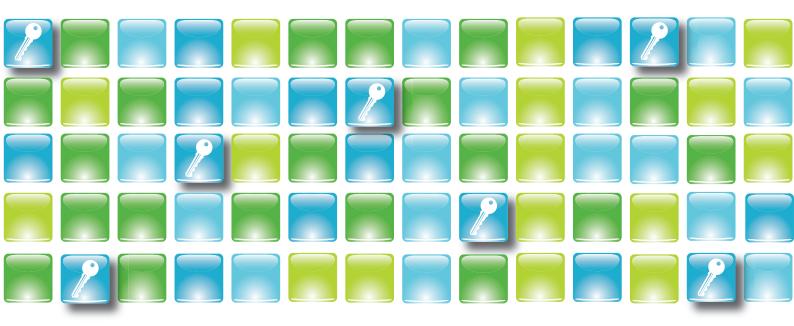
Outcomes of Internal reviews concerning requests for information received by Invest Northern Ireland during 2009, where the requested information was initially withheld, by Group

	CGBI	CGE	ICD	CS	TOTALS
Internal Reviews					
Total Number of Reviews (calendar year to date)	2*	2	0	0	4
Number Where Outcome Known	2	2	0	0	4
Original Decision Upheld in Full	2	1	0	0	3
Original Decision Upheld in Part	0	1	0	0	1
Complaint Upheld	0	0	0	0	0

<sup>\*2</sup> reviews received in 2009 on decisions made on original requests responded to in 2008

Table 7 Known Appeals to Information Commissioner's Office concerning the handling of requests for information received by Invest Northern Ireland during 2009.

	CGBI	CGE	ICD	CS	TOTALS		
Appeals to the Information Co	Appeals to the Information Commissioner						
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		





Building Locally Competing Globally

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