



---

Llywodraeth Cymru  
Welsh Government

## **Report on the Implementation of Open Government Legislation and Policies during 2022**

<b>Contents</b>	<b>Page</b>
<b>Introduction</b>	<b>3</b>
<b>Summary</b>	<b>4</b>
<b>Volume of Freedom of Information Requests</b>	<b>5</b>
<b>Category of Requestor</b>	<b>10</b>
<b>Timeliness of Responses</b>	<b>11</b>
<b>Outcomes of Completed Requests</b>	<b>12</b>
<b>Use of Exemptions and Exceptions</b>	<b>14</b>
<b>Internal Reviews</b>	<b>16</b>
<b>Timeliness of Internal Reviews</b>	<b>18</b>
<b>Appeals to the Information Commissioner</b>	<b>18</b>
<b>Appeals to the First-tier Tribunal (Information Rights)</b>	<b>18</b>
<b>Annex A: Use of Exemptions and Exceptions during 2022</b>	<b>19</b>

## **Introduction:**

This is the seventeenth report the Welsh Government has published on the implementation of open government legislation and policies. This is a retrospective report which describes our experiences during 2022.

The statistics in this report relate to the handling of requests for recorded information under the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIRs) and the Data Protection Act 2018 (DPA2018) / UK General Data Protection Regulation (UK GDPR). The statistics cover only requests logged by the Welsh Government's Information Rights Unit and exclude "routine" requests and information given out during the normal course of business. As a result, the data is only an indication of the Welsh Government's experiences and performance.

Unless otherwise indicated the data presented in the tables and graphs throughout this report was obtained from the Welsh Government's Request for Information (RFI) Tracking System on 22 May 2023. Please note that percentages are rounded to 1 decimal place in areas which may lead to apparent slight discrepancies between the sum of the constituent items and the total.

This report does not cover requests received by other public authorities in Wales.

## Summary:

In 2022:

- The Welsh Government received 1,031 requests for recorded information.
- The total number of requests received decreased by 8.8% (from 1,131 in 2021). This is the third highest number of requests received by the Welsh Government in a calendar year since the FOIA and EIRs were commenced on 1 January 2005.
- Of the 1,031 requests the Welsh Government completed<sup>1</sup> 1,030 (99.9%) at the time this report was generated.
- Of the 1,030 completed requests, 883 (85.7%) were completed within 20 working days and 894 (86.8%) were completed within the statutory deadline<sup>2</sup>.
- Of the 1,030 completed requests some or all of the information was provided in response to 649 (63.0%).
- The most commonly applied exemptions / exceptions were: FOIA section 21: information accessible to applicant by other means (17.7%), FOIA section 40: personal information (17.3%), and FOIA section 22: information intended for future publication (12.7%).
- The Welsh Government received a total of 56 complaints (5.4% of requests received) relating to its handling of requests for information.
- Of the 56 internal reviews, the complaint was upheld in 10 cases, partly upheld in 6 cases, and the original decision upheld in 40 cases.
- The Information Commissioner's Office (ICO) investigated 4 complaints<sup>3</sup> (0.4% of requests) and issued a Decision Notice in relation to 2 of them.
- No ICO Decision Notices were appealed to the First-tier Tribunal.

---

<sup>1</sup> A completed request is a request for recorded information that has been answered by the Welsh Government.

<sup>2</sup> The statutory deadline includes requests answered either within 20 working days or within a permitted extended deadline.

<sup>3</sup> A complaint to the ICO is defined as a formal investigation which has resulted in the ICO issuing a Decision Notice or is otherwise resolved by the ICO.

## Volume of Freedom of Information Requests:

The Welsh Government received 1,031 requests for recorded information in 2022. Since the commencement of the FOIA on 1 January 2005 the number of requests received each year has fluctuated. There was a 8.8% decrease in the number of requests received in 2022 when compared to 2021. The total of 1,031 requests received is the third highest number of requests received by the Welsh Government in a calendar year since the FOIA and EIRs were commenced on 1 January 2005.

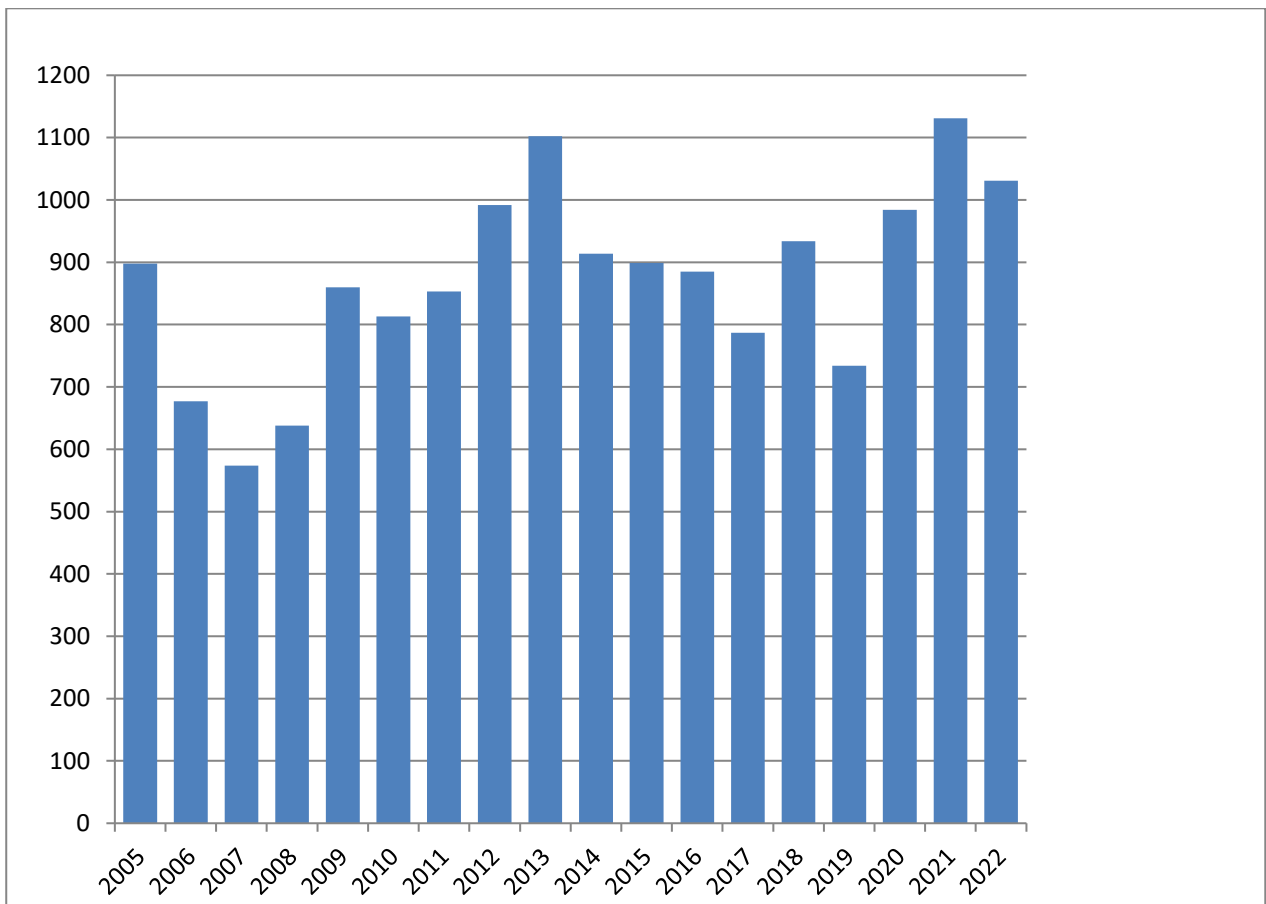
Table 1 and Figure 1 below detail the annual total number of requests for recorded information received by the Welsh Government since 2005.

Table 2 and Figure 2 compare the number of requests received on a month by month basis in 2021 and 2022.

Table 1: Total number of requests for recorded information received 2005-2022

Year	Total number of requests received	Year on year difference (%)
2005	898	-
2006	677	-24.6%
2007	574	-15.2%
2008	638	11.1%
2009	860	34.8%
2010	813	-5.5%
2011	853	4.9%
2012	992	16.3%
2013	1,102	11.1%
2014	914	-17.1%
2015	899	-1.6%
2016	885	-1.6%
2017	787	-11.1%
2018	934	18.7%
2019	734	-21.4%
2020	984	34.1%
2021	1,131	14.9%
2022	1,031	-8.8%

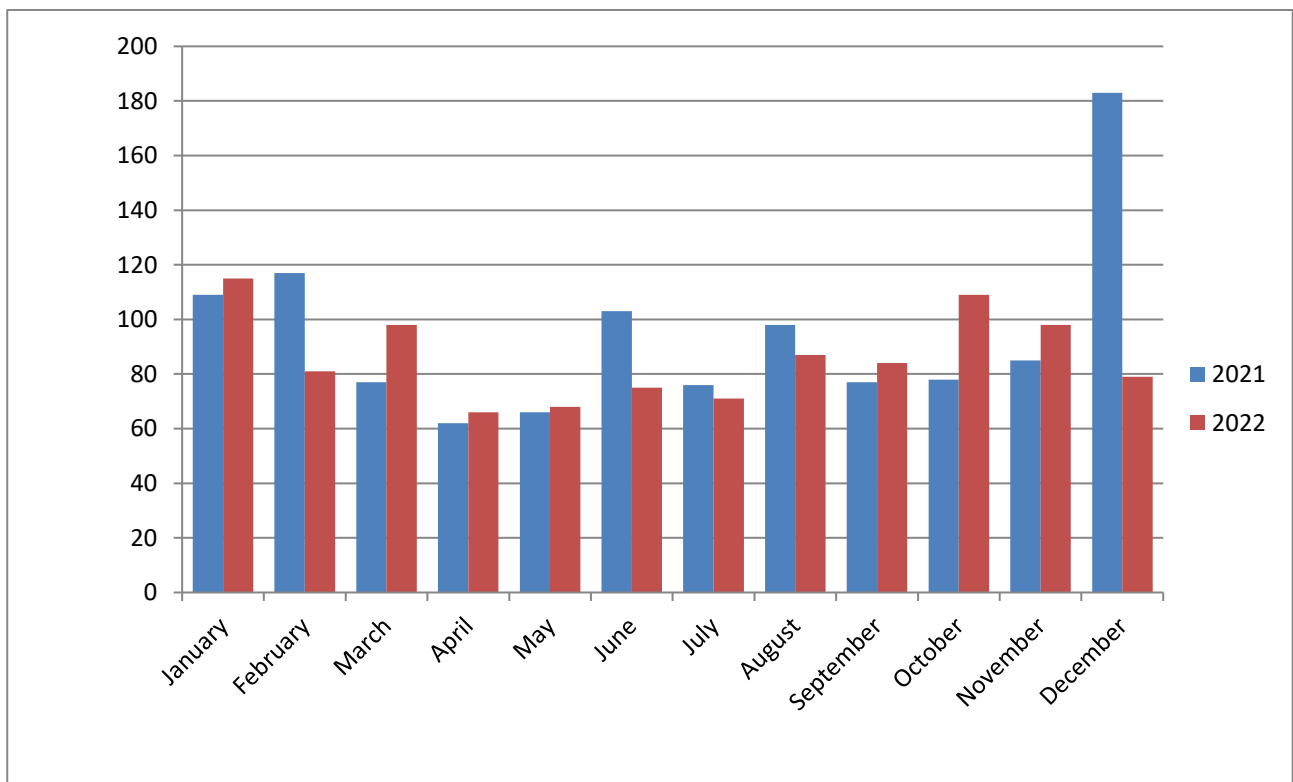
Figure 1: Total number of requests for recorded information received 2005-2022



**Table 2: Number of requests for recorded information received each month: 2021 & 2022**

Month	2021	% of Total	2022	% of Total
January	109	9.6%	115	11.2%
February	117	10.3%	81	7.9%
March	77	6.8%	98	9.5%
April	62	5.5%	66	6.4%
May	66	5.8%	68	6.6%
June	103	9.1%	75	7.3%
July	76	6.7%	71	6.9%
August	98	8.7%	87	8.4%
September	77	6.8%	84	8.1%
October	78	6.9%	109	10.6%
November	85	7.5%	98	9.5%
December	183	16.2%	79	7.7%
<b>Total</b>	<b>1131</b>	<b>100%</b>	<b>1031</b>	<b>100%</b>

**Figure 2: Number of requests for recorded information received each month: 2021 & 2022**

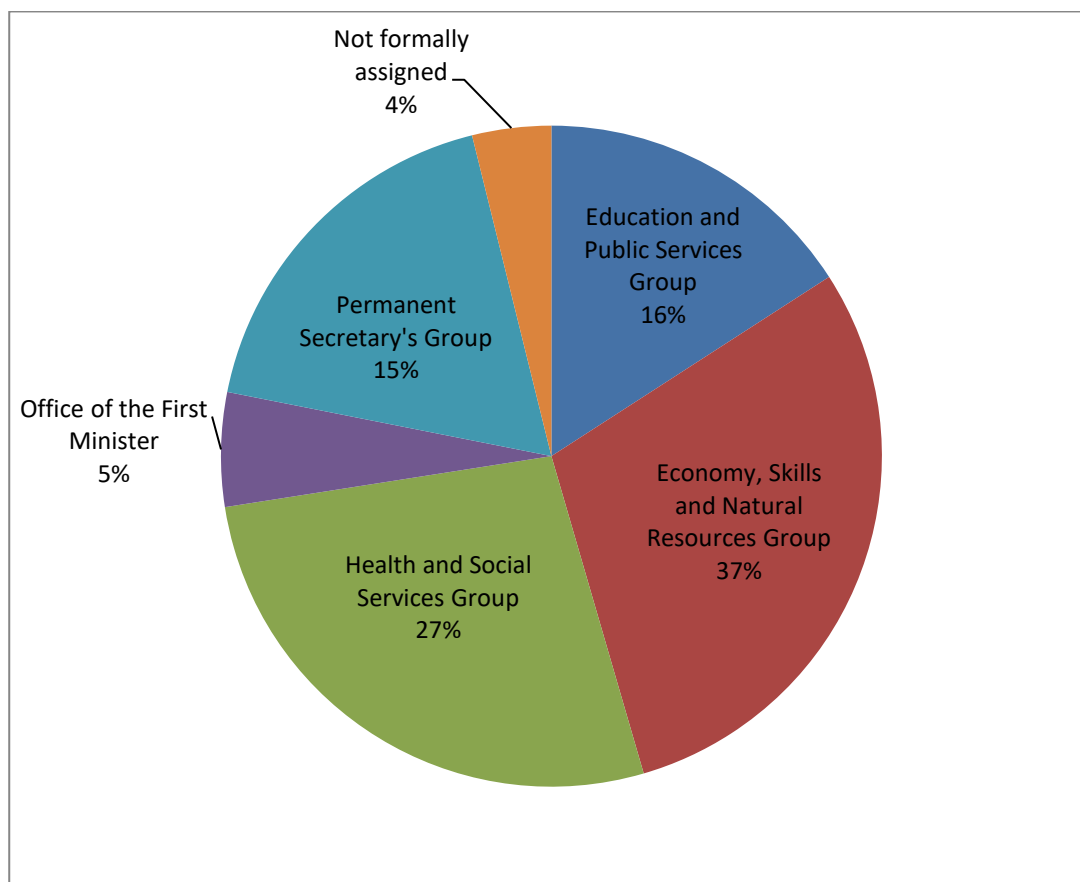


A breakdown by portfolio of the number of requests for recorded information received by the Welsh Government in 2022 is provided within Table 3. Due to an organisational structure change in April 2022, there are two sets of figures. The first (Table 3a and Figure 3a) shows requests received prior to April 2022; the second (Table 3b and Figure 3b) shows requests handled post re-organisation.

Table 3a: Number of requests received by Welsh Government portfolio areas during 2022 (pre-organisational change)

Director General Area / Group	2022 Number of Requests	% of Requests
Education and Public Services Group	37	15.9%
Economy, Skills and Natural Resources Group	69	29.6%
Health and Social Services Group	63	27.0%
Office of the First Minister	13	5.6%
Permanent Secretary's Group	42	18.0%
Not formally assigned <sup>4</sup>	9	3.9%
<b>Total</b>	<b>233</b>	<b>100%</b>

Figure 3a: Number of requests received by Welsh Government portfolio areas during 2022 (pre-organisational change)



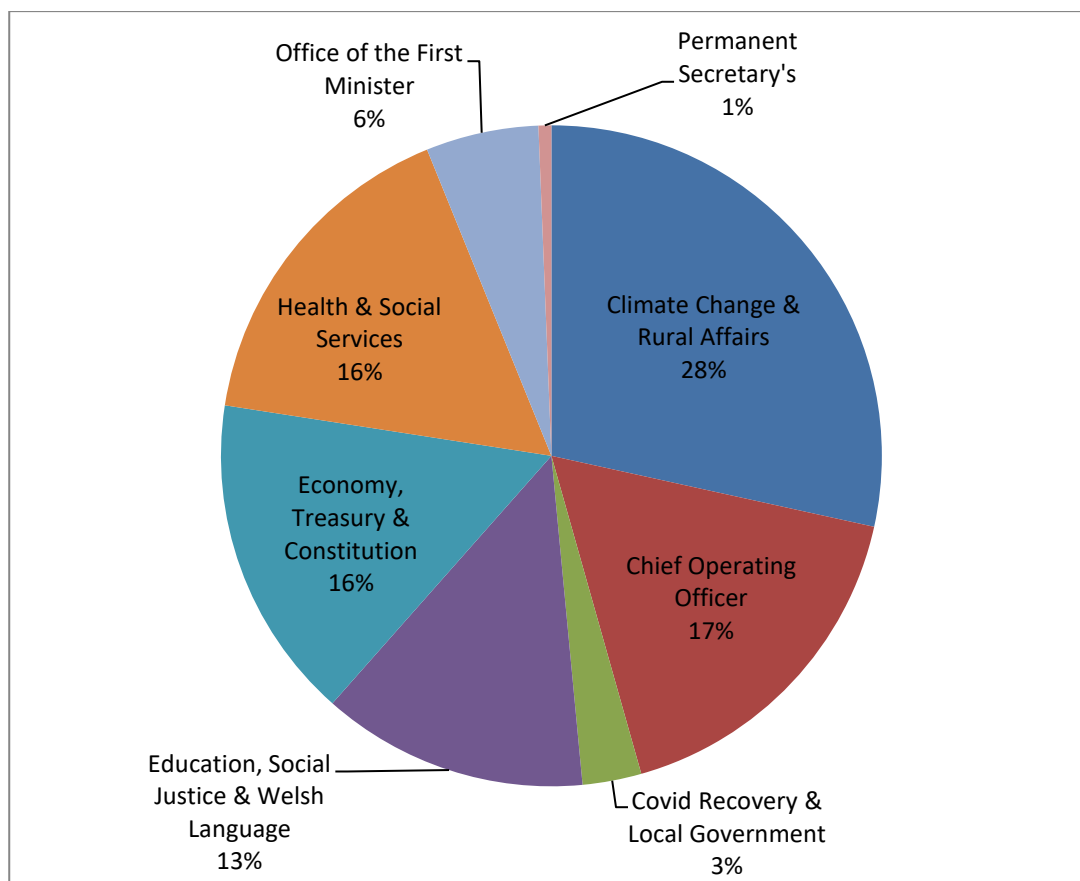
<sup>4</sup> These requests did not fall under any specific group area and were dealt with centrally by the Information Rights Unit



Table 3b: Number of requests received by Welsh Government portfolio areas during 2022 (post-organisational change)

Director General Area / Group	2022 Number of Requests	% of Requests
Climate Change and Rural Affairs Group	277	28.4%
Chief Operating Officer Group	137	17.2%
Covid Recovery & Local Government Group	23	2.9%
Education, Social Justice & Welsh Language Group	104	13.0%
Economy, Treasury & Constitution Group	127	15.9%
Health and Social Services Group	131	16.4%
Office of the First Minister Group	44	5.5%
Permanent Secretary's Group	5	0.6%
<b>Total</b>	<b>798</b>	<b>100%</b>

Figure 3b: Number of requests received by Welsh Government portfolio areas during 2022 (post-organisational change)



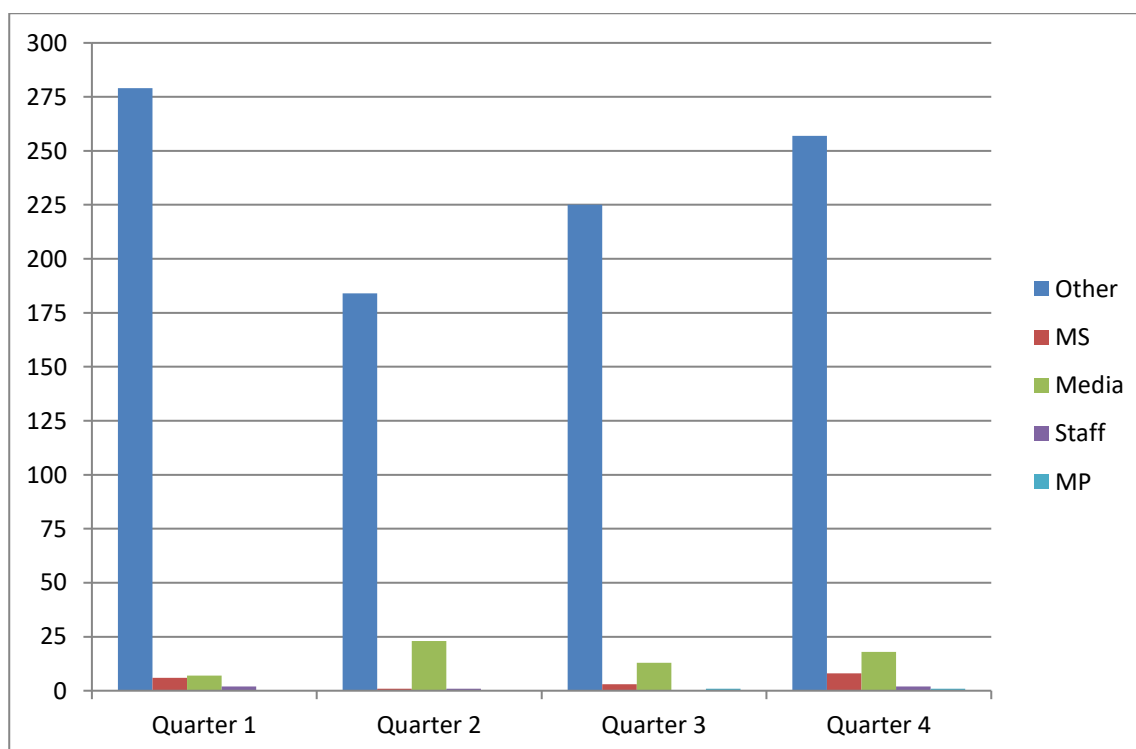
### Category of Requestor:

Over the year, requests from Members of the Senedd, the media, staff and Members of Parliament (MPs) accounted for 86 (8.3%) of the 1,031 requests received. The remaining 945 requests (which amount to 91.7% of all requests) were recorded under the 'Other' category.

Table 4: Requests received from each type of requester during each quarter of 2022

	Other	MS	Media	Staff	MP
Quarter 1	279	6	7	2	0
Quarter 2	184	1	23	1	0
Quarter 3	225	3	13	0	1
Quarter 4	257	8	18	2	1
<b>2022 Total</b>	<b>945</b>	<b>18</b>	<b>61</b>	<b>5</b>	<b>2</b>

Figure 4: Requests received from each type of requester during each quarter of 2022



## Timeliness of Responses:

The FOIA and EIRs both require public bodies to normally respond to written requests for information within 20 working days of receipt, with limited exceptions. The FOIA allows for a reasonable extension to the 20 working day deadline when considering a public interest tested exemption and the EIRs allow for an extension of a maximum of a further 20 working days if the request is complex and voluminous.

Of the 1,031 requests, 1,030 were complete (99.9%) at the time the report was compiled. Of the 1,130 completed requests, 883 (85.7%) were completed within 20 working days and 894 (86.8%) were completed within the statutory deadline<sup>5</sup>.

Table 5 below details the percentage of requests completed within statutory deadline by the Welsh Government since 2005<sup>6</sup>.

Table 5: Percentage of requests completed within statutory deadline 2005-2022

<u>Year</u>	<u>% completed within statutory deadline</u>
2005	63.3%
2006	64.2%
2007	81.0%
2008	86.2%
2009	82.1%
2010	74.6%
2011	83.0%
2012	89.0%
2013	90.1%
2014	91.0%
2015	86.6%
2016	84.7%
2017	83.5%
2018	89.7%
2019	89.2%
2020	79.8%
2021	83.2%
2022	86.8%

<sup>5</sup> The statutory deadline includes requests answered either within 20 working days or within a permitted extended deadline.

<sup>6</sup> The figures for 2005-2008 differ slightly to those published in earlier reports due to open requests subsequently being completed after publication.

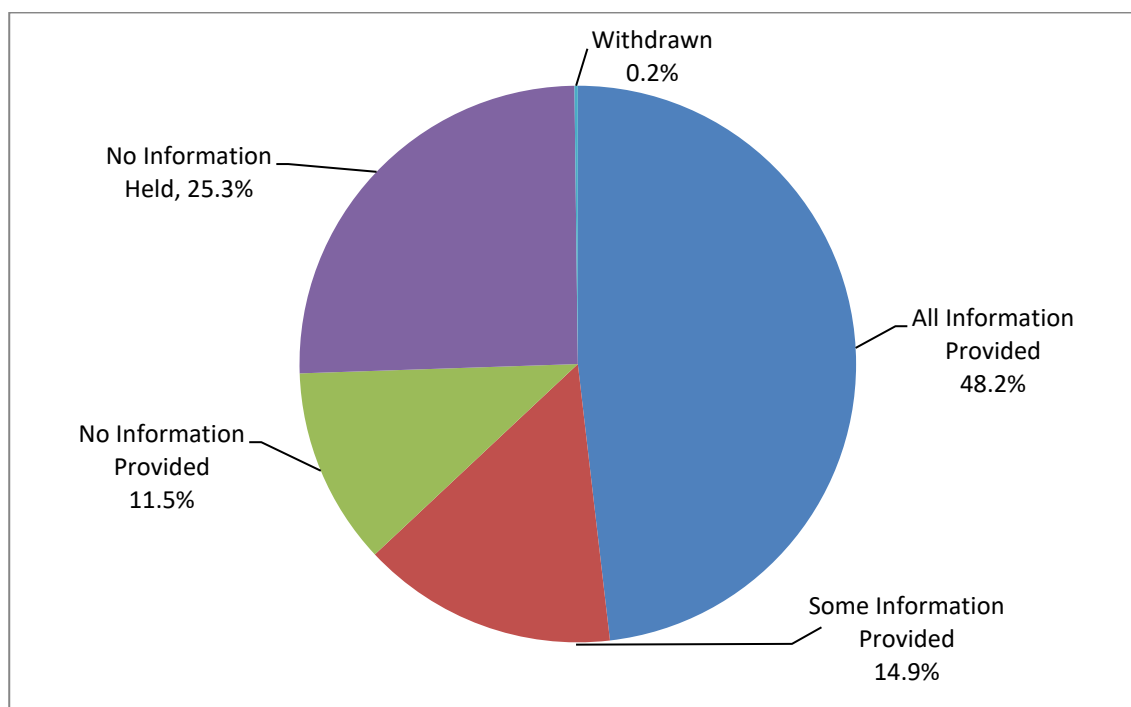
## Outcome of Completed Requests:

The number of completed requests received by the Welsh Government during 2021 and 2022 is shown by completion category in Tables 6a and 6b, and Figures 5a and 5b.

**Table 6a: Number of completed requests shown by completion category during 2021 and 2022**

Completed Category	2021	% of Total	2022	% of Total
All Information Provided	493	43.6%	496	48.2%
Some Information Provided	163	14.4%	153	14.9%
No Information Provided <sup>7</sup>	138	12.2%	118	11.5%
No Information Held	328	29.0%	261	25.3%
Withdrawn	9	0.7%	2	0.2%
<b>Total</b>	<b>1,131</b>	<b>100%</b>	<b>1,030</b>	<b>100%</b>

**Figure 5a: Number of completed requests shown by completion category during 2022**

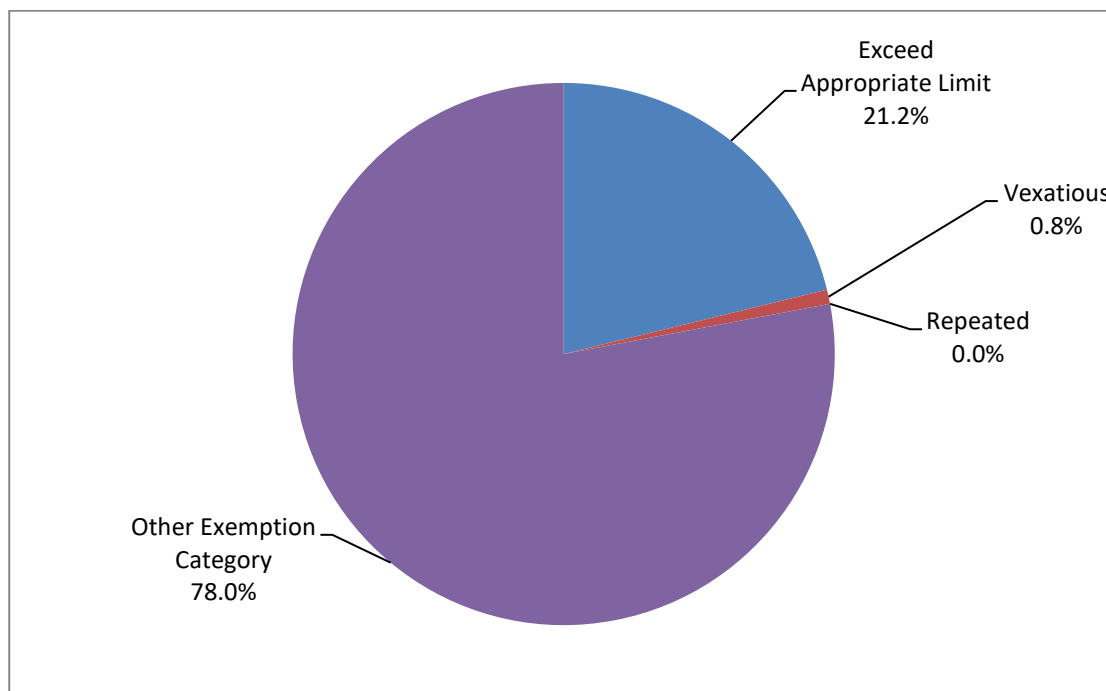


<sup>7</sup> The 'No Information Provided' category includes information withheld in full using one or more exemptions, and those rejected for exceeding the appropriate limit, and being vexatious or repeated requests.

Table 6b: Number of 'No Information Provided' requests broken down by exemption category during 2021 and 2022

<u>No Information Provided Completed Category</u>	<u>2021</u>	<u>% of Total</u>	<u>2022</u>	<u>% of Total</u>
S12 Exceeded Appropriate Limit	46	33.3%	25	21.2%
S14 Vexatious	1	0.7%	1	0.8%
S14 Repeated	1	0.7%	0	0.0%
Information falls into another exemption category <sup>8</sup>	90	65.2%	92	78.0%
<b>Total</b>	<b>138</b>	<b>100%</b>	<b>118</b>	<b>100%</b>

Figure 5b: Number of 'No Information Provided' requests broken down by exemption category during 2022



<sup>8</sup> This includes requests where the information was withheld in full using one or more exemptions/ exceptions listed in the FOIA, EIRs or DPA2018 / UK GDPR other than s12 'cost of compliance exceeds the appropriate limit' and s14 'vexatious or repeated'.

## Use of Exemptions and Exceptions:

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

- request is considered to be vexatious or repeated;
- cost of compliance would exceed the 'appropriate limit' (£600);
- fee is not paid;
- information falls into one or more of the categories of exemptions/exceptions listed in the FOIA, EIRs or DPA2018 / UK GDPR.

Table 7 and Figure 6 details the exemptions and exceptions applied at least ten times by the Welsh Government during 2022. A full list of the exemptions and exceptions can be viewed at Annex A (the figures in Table 7 do not show the number of requests that have had an exemption and/or exception applied to it because it is possible for more than one exemption and/or exception to be applied in relation to individual requests).

Where the Welsh Government has used exemptions and/or exceptions available to withhold information, full explanations have been provided and published in the Disclosure Log which can be viewed on the Welsh Government internet site:

<https://gov.wales/freedom-of-information-responses>

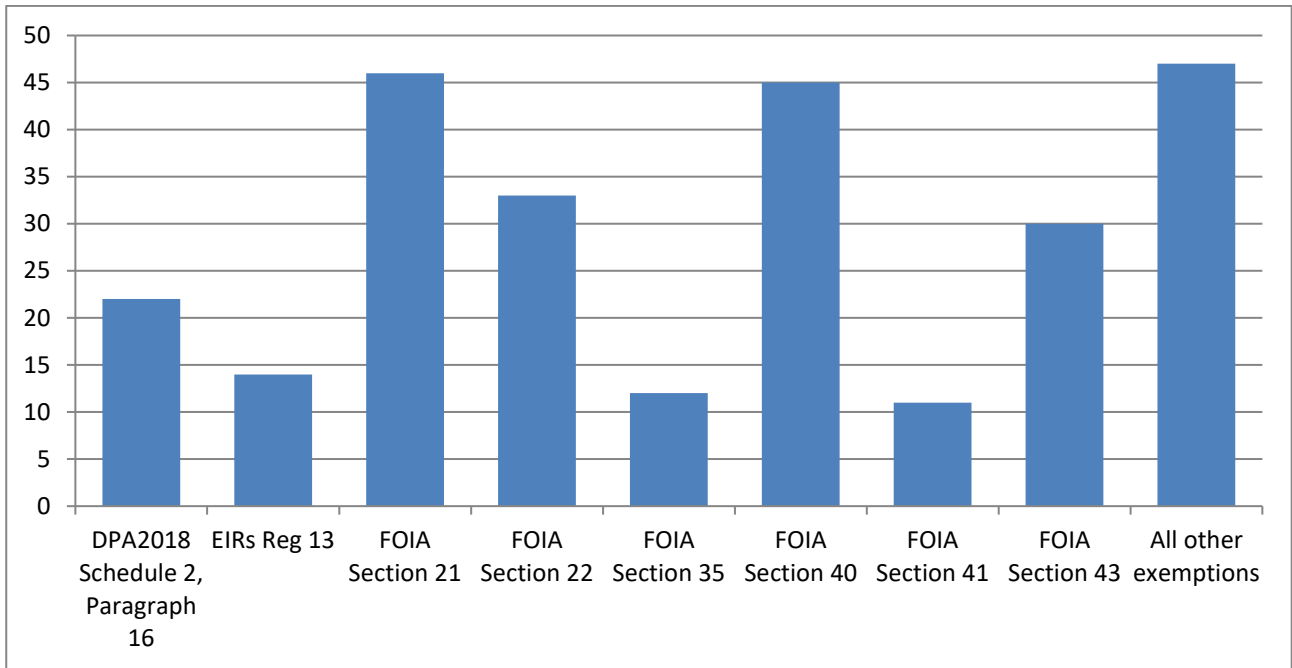
The exemptions most commonly applied were where the information was accessible to the applicant by other means (section 21 FOIA), to protect personal information (section 40 FOIA) and where the information was intended for future publication (section 22 FOIA).

**Table 7: Use of exemptions and exceptions during 2022**

Act-Exemption <sup>9</sup>	2022	% of Total
DPA2018 Schedule 2 Paragraph 16	22	8.5%
EIR Regulation 13	14	5.4%
FOIA Section 21	46	17.7%
FOIA Section 22	33	12.7%
FOIA Section 35	12	4.6%
FOIA Section 40	45	17.3%
FOIA Section 41	11	4.2%
FOIA Section 43	30	11.5%
All other exemptions	47	18.1%
<b>Total</b>	<b>260</b>	<b>100%</b>

<sup>9</sup> A description of the matter to which each exemption relates is provided on the Information Commissioner's website at: <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/>

Figure 6: Use of exemptions and exceptions during 2022



## Internal Reviews:

Requestors can ask the Welsh Government to undertake an internal review if: i) they do not agree with the decision to withhold some or all of the requested information; ii) the request was not dealt with within 20 working days; or iii) they feel that a fee was wrongly charged.

The Welsh Government received 56 complaints in 2022 which equates to 5.4% of requests. This was an increase compared with 2021 of 27.3%.

Table 8: Number of Complaints (2005-2022)

Year	Total number of complaints
2005	14
2006	27
2007	22
2008	21
2009	16
2010	33
2011	33
2012	45
2013	51
2014	41
2015	40
2016	59
2017	56
2018	81
2019	52
2020	48
2021	44
2022	56

Source: Records held centrally by Information Rights Unit, Welsh Government

Figure 7: Number of Complaints (2005-2022)

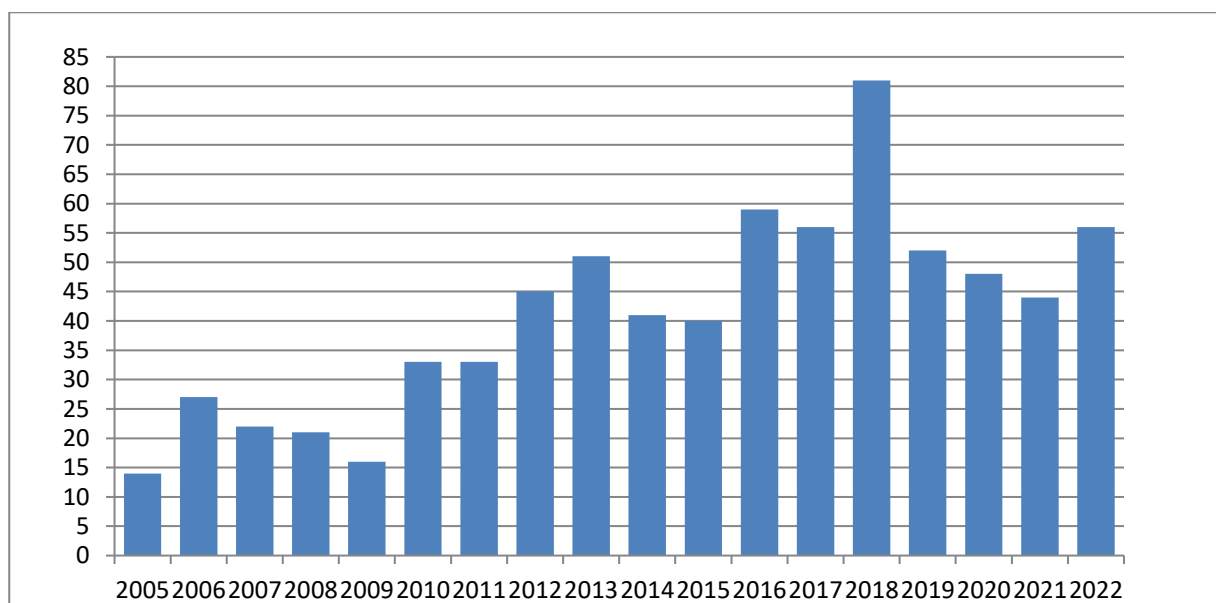




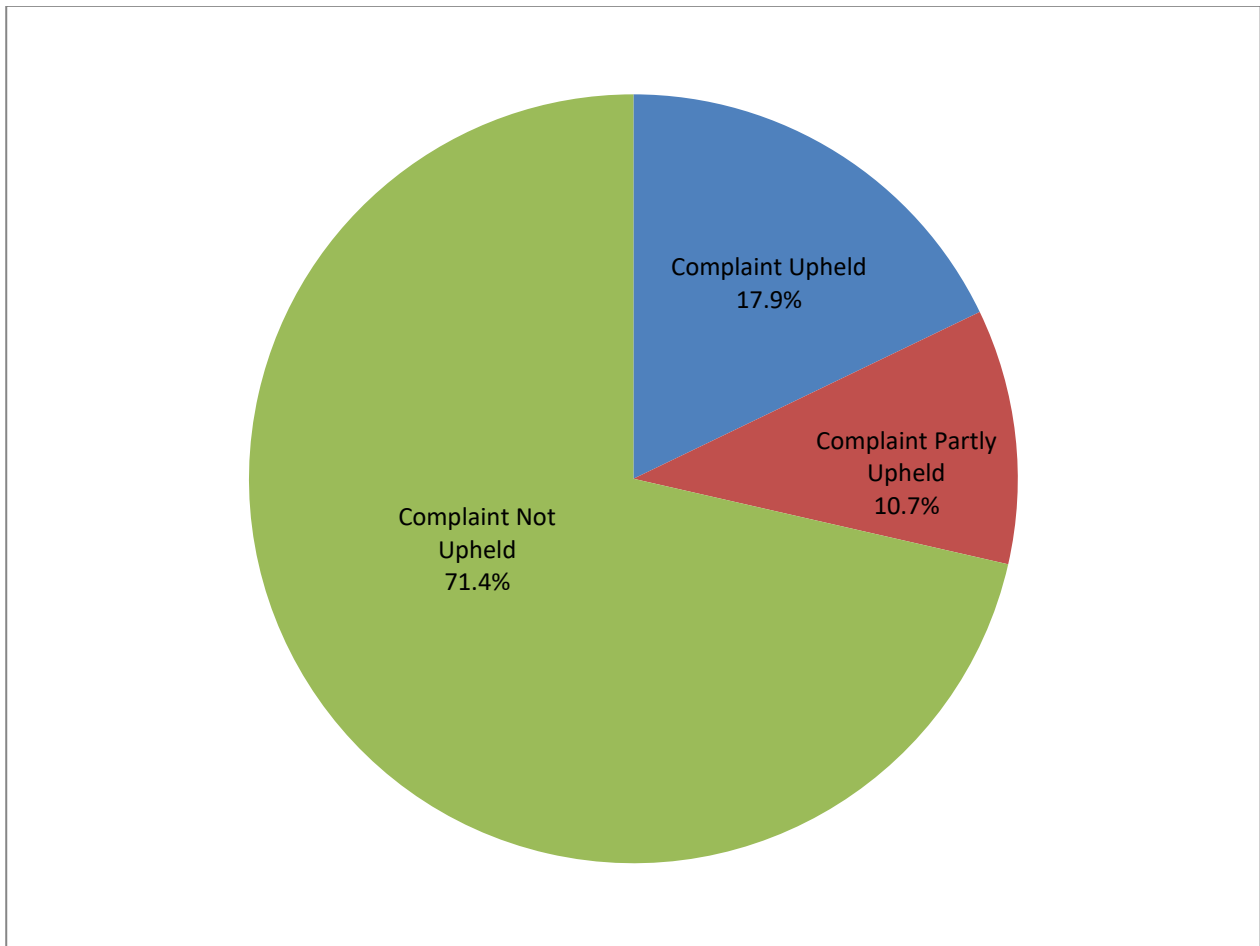
Table 9: Internal review outcomes for 2022

	Number	% of Total
Complaint upheld	10	17.9%
Complaint partly upheld	6	10.7%
Original decision upheld	40	71.4%
<b>Total</b>	<b>56</b>	<b>100%</b>

Source: Records held centrally by Information Rights Unit, Welsh Government

Of the 56 internal reviews, the complaint was upheld in 10 cases, partly upheld in 6 cases and the original decision was upheld in 40 cases.

Figure 8: Internal review outcomes for 2022



### **Timeliness of Internal Reviews:**

There is no statutory deadline for completing an internal review. However, the Information Commissioner has issued guidance which states that an internal review should be completed within 20 working days and that in exceptional cases the deadline for completing can be extended to 40 working days.

Of the 56 completed internal reviews 47 (83.9%) were completed within 20 working days, 6 (10.7%) were completed within 21 to 40 working days and 3 (5.4%) took longer than 40 working days.

### **Appeals to the Information Commissioner:**

If a requestor is not satisfied with the Welsh Government's response, then they can complain to the Information Commissioner's Office (ICO), which is the independent regulator of public authorities in relation to the handling of information requests. Upon receipt of a complaint, the ICO will decide whether to investigate and may subsequently issue a Decision Notice. A Decision Notice is the ICO's final view on whether or not the public authority has complied with the FOIA or EIRs, and what remedial action (if any) needs to be taken. Not all investigations will result in a Decision Notice. Some investigations are resolved informally.

In 2022 the ICO investigated 4 complaints<sup>10</sup> (0.4% of requests). Of the 4 completed investigations 2 decision notices were issued. Neither of the Decision Notices required further action by the Welsh Government.

### **Appeals to the First-tier Tribunal (Information Rights):**

The First-tier Tribunal (Information Rights) hears appeals against Decision Notices issued by the ICO. In 2022, no ICO Decision Notices were appealed to the First-tier Tribunal.

---

<sup>10</sup> A complaint to the ICO is defined as a formal investigation which has resulted in the ICO issuing a Decision Notice or is otherwise resolved by the ICO.

## Annex A: Use of exemptions and exceptions during 2022

As outlined in the report the figures below do not show the number of requests that have had an exemption and/or exception applied because it is possible for more than one exemption and/or exception to be applied in relation to individual requests.

<b>Act – Exemption</b>	<b>2022</b>	<b>% of Total</b>
DPA2018 Schedule 2 Paragraph 2 – Crime and taxation	1	0.4%
DPA2018 Schedule 2 Paragraph 16 – Protection of the rights of others	22	8.5%
DPA2018 Schedule 2 Paragraph 19 – Legal professional privilege	4	1.5%
DPA2018 Schedule 2 Paragraph 24 – Confidential references	1	0.4%
DPA2018 Schedule 3 Paragraph 9 – Data processed by a court	1	0.4%
EIRs Reg 12(4)(b) – Request is manifestly unreasonable	3	1.2%
EIRs Reg 12(4)(d) – Material still in the course of completion	3	1.2%
EIRs Reg 12(4)(e) – Internal communications	1	0.4%
EIRs Reg 12(5)(a) – international relations	1	0.4%
EIRs Reg 12(5)(e) – Confidentiality of commercial or industrial information where confidentiality is provided by law to protect a legitimate commercial interest	3	1.2%
EIRs Reg 13 – Personal data of third parties	14	5.4%
FOIA Section 21 – Information accessible to the applicant by other means	46	17.7%
FOIA Section 22 – Information intended for future publication	33	12.7%
FOIA Section 27 – International relations	6	2.3%
FOIA Section 28 – Relations within the United Kingdom	1	0.4%
FOIA Section 29 – The economy	4	1.5%
FOIA Section 30 – Investigations and proceedings conducted by public authorities	1	0.4%
FOIA Section 31 – Law enforcement	4	1.5%
FOIA Section 32 – Court records	2	0.8%
FOIA Section 35 – Formation of government policy	12	4.6%
FOIA Section 36 – Effective conduct of public affairs	5	1.9%
FOIA Section 38 – Health and safety	1	0.4%
FOIA Section 40 – Personal Information	45	17.3%
FOIA Section 41 – Information provided in confidence	11	4.2%
FOIA Section 42 – Legal professional privilege	3	1.2%
FOIA Section 43 – Commercial interests	30	11.5%
UK GDPR Article 12(5)(b) – Manifestly unfounded or excessive	2	0.8%
<b>Total</b>	<b>260</b>	<b>100%</b>