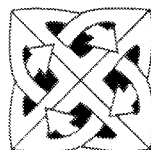
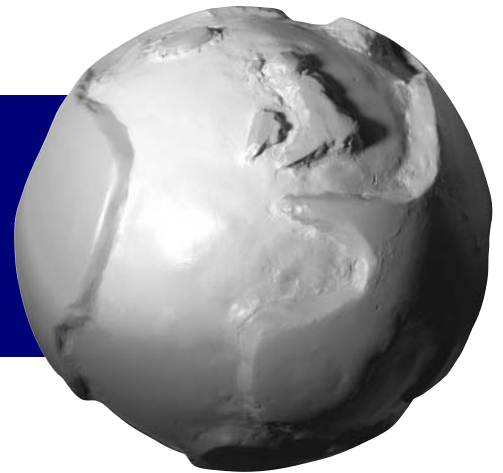


# Access All Areas

Report on the campaign for  
Freedom of Information



FRIENDS OF THE EARTH SCOTLAND

**Campaigning for Environmental Justice**

With grateful thanks to all of those who took part in the Access All Areas campaign, to Chris Gregson for all her hard work and to Brendan Turvey who carried out the pilot phase of this project.



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## Executive Summary

Easy, inexpensive access to information is vital to protecting our health, the environment and the democracy within which we live. Every day people are denied access to information about developments which impact on their quality of life, whether it be about air pollution, emissions from local factories, or details of what is being dumped in toxic landfill sites. Frustration is compounded by the fact that much of this information should be public anyway; failures by the authorities often mean that information is not made available. These failures range from staff not understanding the law, to misuse of the rules and even deliberate withholding or overcharging.

Friends of the Earth Scotland have always championed the rights of communities and individuals to have access to information on their environment and on proposals and plans which affect them.

The aims of the Access All Areas campaign were to test the current systems of information provision which are operated by public bodies, to highlight issues of concern and to force improvements in current practice.

Currently a variety of Codes of Practice, Acts of Parliament and Charters give the public some rights to information held by public bodies. The Environmental Information Regulations set a deadline of two months for responses to requests for information. It is important to know whether these rights are being upheld. The new Freedom of Information (Scotland) Act gives members of the public a legal right to access information. These rights include a deadline of 20 working days for receiving a response to a request made to any Scottish public body.

The results of the campaign demonstrate that far too frequently public bodies fail to comply with the varying codes and regulations. Overall:

- 8% of requests never received a response at all;
- 9% of responses took longer than 20 working days;
- therefore, 17% of all requests made failed to receive a response which would comply with the new Fol Act.

The results also illustrate the campaign participants' opinions of their responses in terms of speed, tone, accuracy and quantity. Overall:

- 19% of participants judged the speed of their response to be slow;
- 9% of participants judged the tone of their response to be unhelpful;
- 10% of participants judged the accuracy of their response to be poor;
- and, 16% of participants judged the size of their response to be small.

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# INTRODUCTION

## 1.1 Aims

With freedom of information becoming an increasingly topical issue, the Access All Areas campaign was established in the year 2000 to test how the current provisions for public access to information were operating. Compliance with two sets of provisions, in particular, was examined: the Environmental Information Regulations and the Code of Practice on Public Access to Scottish Executive Information, these are looked at in more detail in Chapter Two. By finding out how well public authorities operate this legislation and Code of Practice, respectively, the campaign aimed to, firstly, highlight any current problems and, secondly, use this information to influence the formulation of new freedom of information legislation. Scotland's first ever Freedom of Information Act has just been passed by the Scottish Parliament, and the results of this campaign are analysed in chapter four to find out what lessons they hold for this landmark legislation.

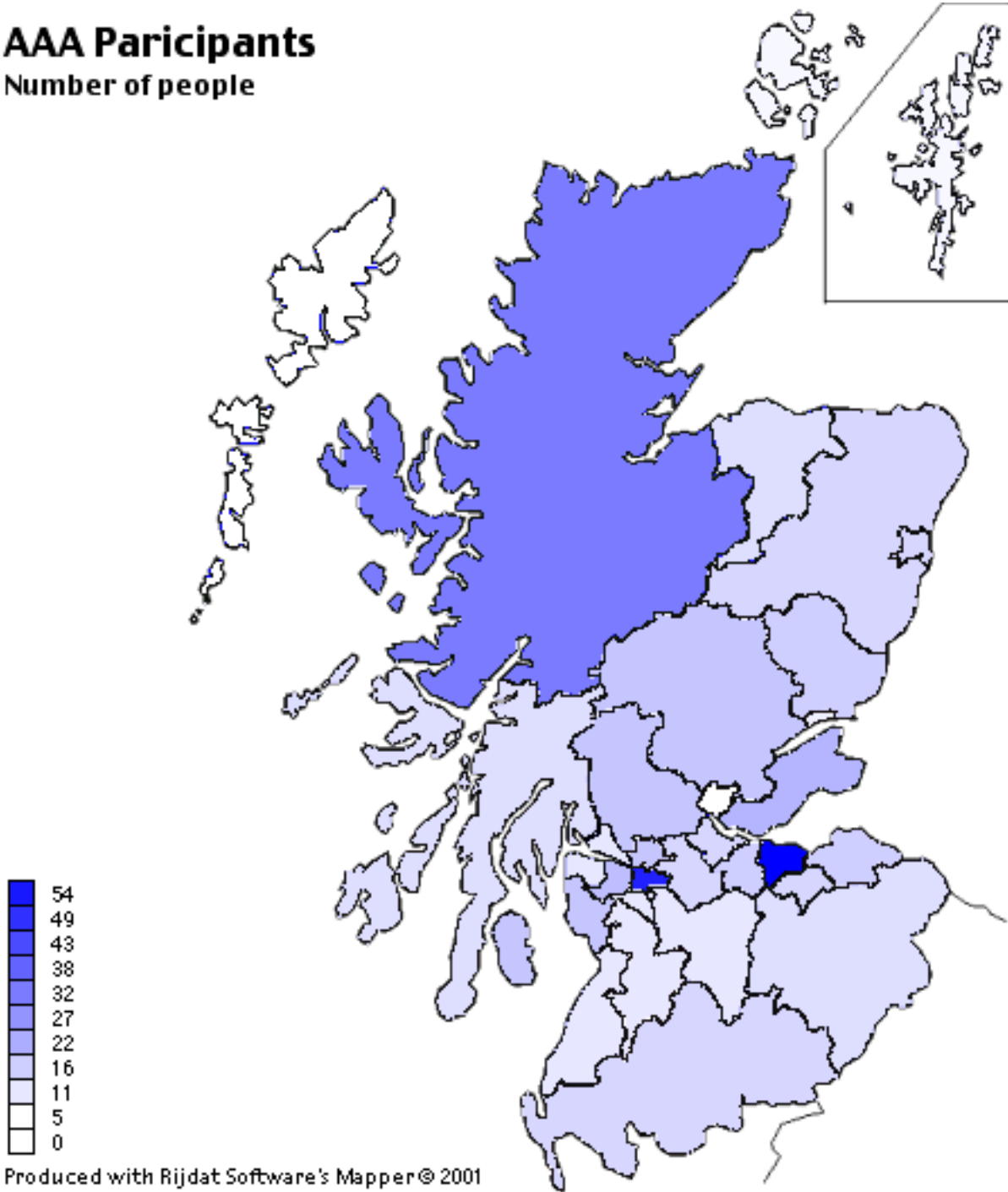
## 1.2 Methodology

Campaign participants wrote letters to a range of public bodies (local authorities, LECs, health boards, SEPA, SNH, water authorities, Food Standards Agency, Scottish Tourist Board and the Scottish Executive) requesting information on environmental subjects. Letters were sent between January and October 2001 and were always (with the exception of the Scottish Executive, Tourist Board and Food Standards Agency) sent to local offices. The campaign was designed with the intention that one office of a public body never received the same request for information twice and participants were instructed not to mention FoE in their requests. This ensured that the results obtained paint a true and accurate picture. This also meant that the information requested necessarily covered a wide range of areas from landfills, water pollution and incinerators to food safety and mobile phone masts.

## 1.2 Participation

369 members of the public signed up to take part in the Access All Areas campaign. Of these, at least one comes from each of 31 local authorities, Clackmannanshire being the only council area without a participant. The distribution of participants by local authority area is shown below.

### AAA Participants Number of people



## **Chapter Two - The Information Provisions**

### **2.1 The Environmental Information Regulations**

The Environmental Information Regulations 1992 implemented European Community Directive 90/313. They deal with freedom of access to, and the dissemination of, information on the environment held by public authorities or bodies with public responsibilities for the environment. This applies to all kinds of information including the state of water, air, soil, land and animals as well as activities or measures designed to protect these. Information on human health is also covered. Some information may be withheld for legal reasons, or for 'commercial confidentiality' as well as a number of other exemptions.

Under the Environmental Information Regulations (EIRs) information-holding authorities must respond to requests for information as soon as possible and at the latest within two months. They are additionally only allowed to levy charges reasonably attributable to the supply of information.

### **2.2 Code of Practice on Access to Scottish Executive Information**

The 'Code of Practice on Access to Scottish Executive Information' was published in July 1999. This applies to the Scottish Executive and some of the Scottish public bodies within the jurisdiction of the soon to be created Scottish Information Commissioner, including SEPA, SNH, Historic Scotland, the Accounts Commission, Scottish Homes (now Communities Scotland) and the Scottish Tourist Board. The Code is policed by the Scottish Parliamentary Commissioner for Administration.

The Code states at paragraph 5 that 'information will be provided as soon as practicable. The target for response to simple requests for information is 20 working days from the date of receipt. This target may need to be extended when significant search or collation of material is required. Where information cannot be provided under the terms of the Code, an explanation will normally be given.'

The Code states that reasonable charges may be made and lists 15 clauses under which information may be withheld, including defence and security, legal proceedings, confidentiality and research, statistics and analysis.

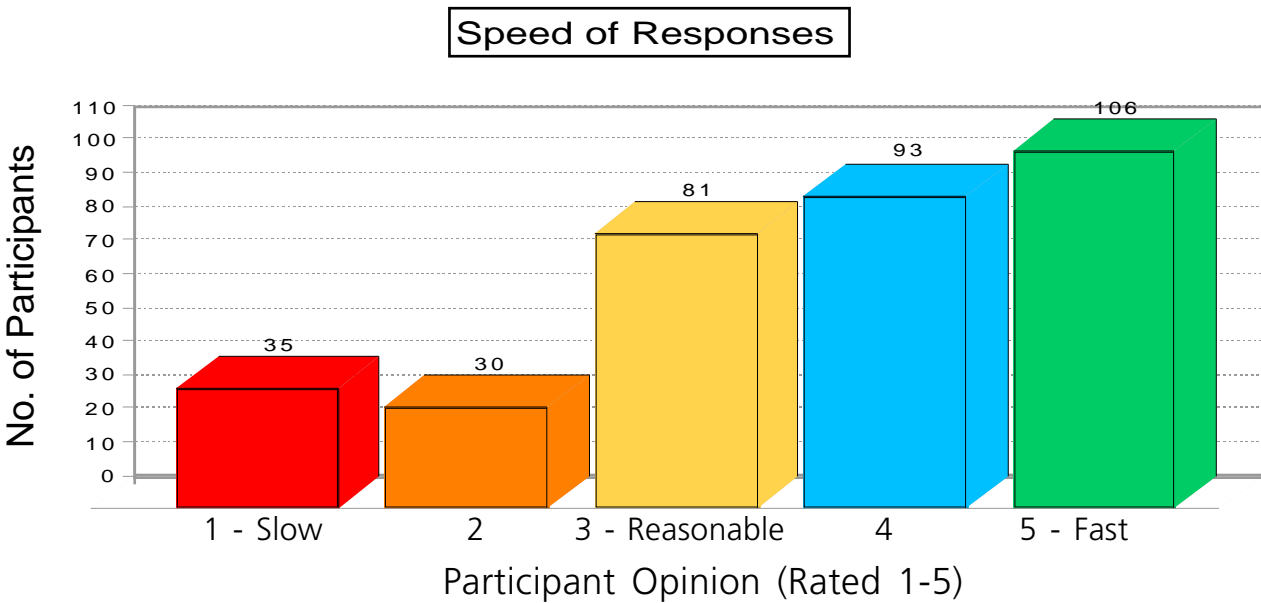
# Chapter 3 - Access All Areas Campaign Results

## 3.1 Overall Results

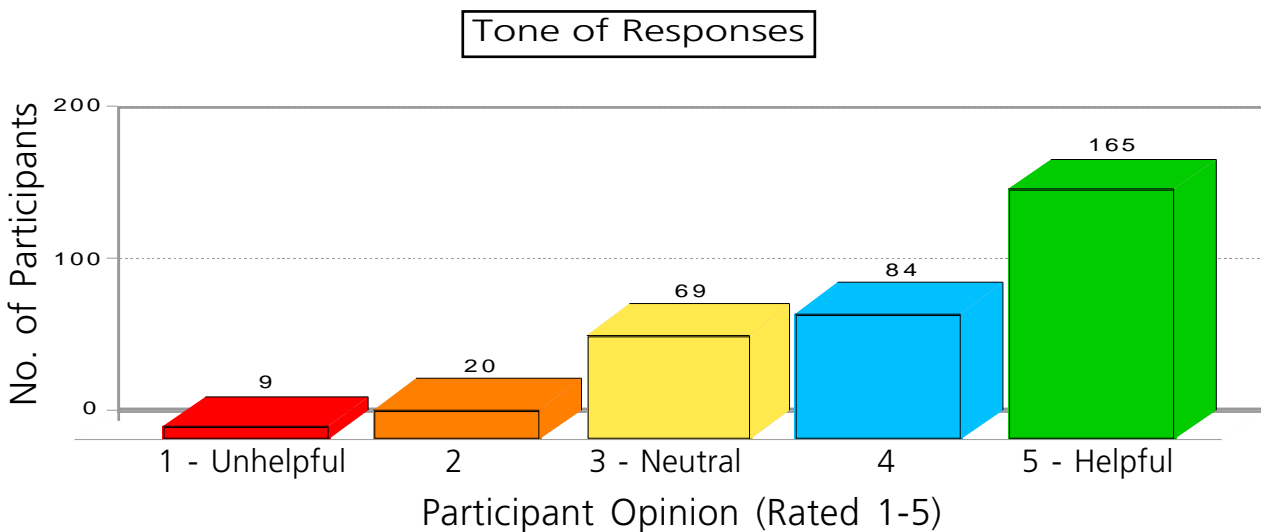
378 requests for information in total were made by Access All Areas campaign participants to the 9 types of public authorities tested. Of these 378, 32 requests (8%) did not receive any reply. A further 31(9%) of the 346 responses received took longer than 20 working days to be issued.

The following graphs illustrate the campaign participants' overall opinions of the responses they received.

Overall, 65 campaign participants (19%) judged the speed of their response to be slow, 81 participants (23%) judged to be reasonable and 199 (58%) to be fast.



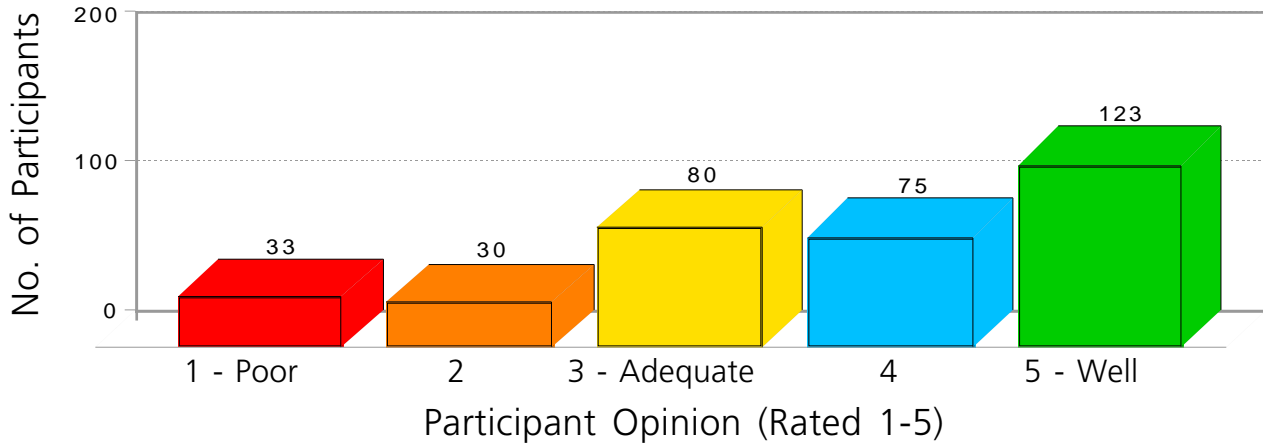
29 participants (9%) judged the tone of their response to be unhelpful, 69 (20%) judged their responses as neutral and 249 (71%) as helpful.





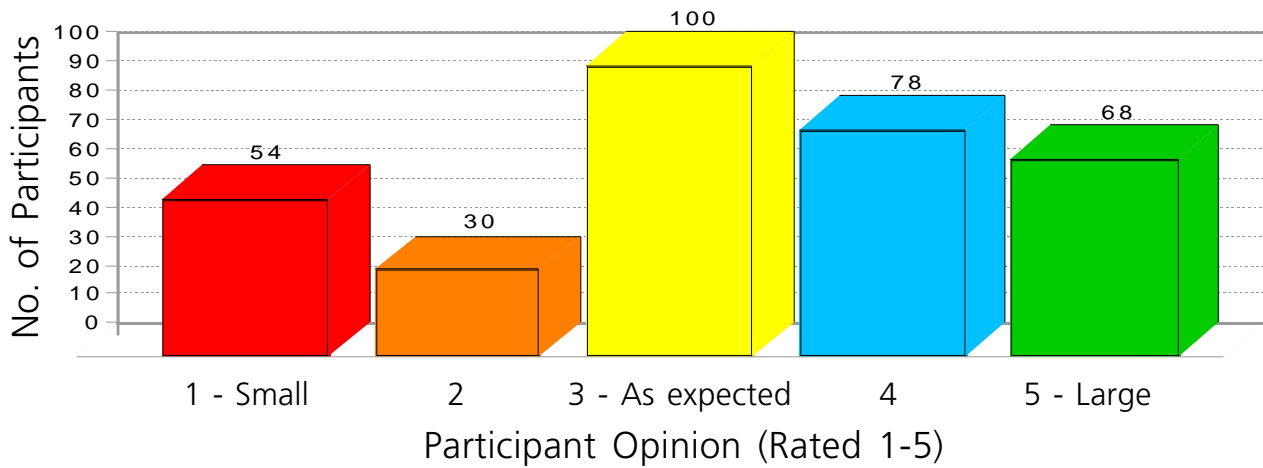
In terms of accuracy, 63 participants (18%) thought their response was inadequate, 80 (23%) thought their response was adequate and 198 (58%) thought their response was better than adequate or good.

Accuracy of Responses



Finally, in terms of quantity, 84 participants (25%) judged their response to be smaller than expected, 100 (30%) judged their response to be as expected and 146 (45%) judged their response to be large.

Quantity of Responses

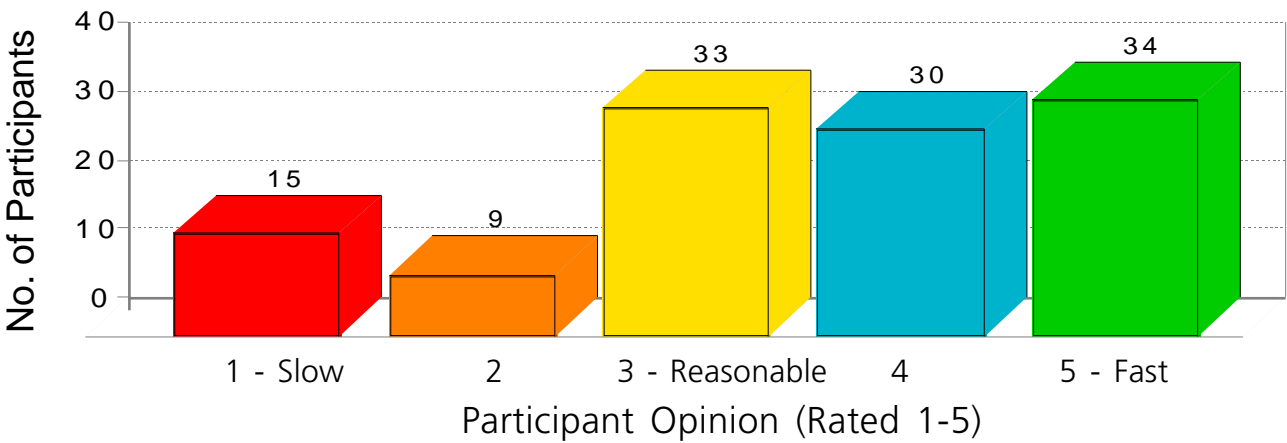


### 3.2 Local Authority Results

132 requests were made to local authorities by campaign participants. Of these 8 (6%) never received a response and 12 (10%) of the 126 responses took longer than 20 working days.

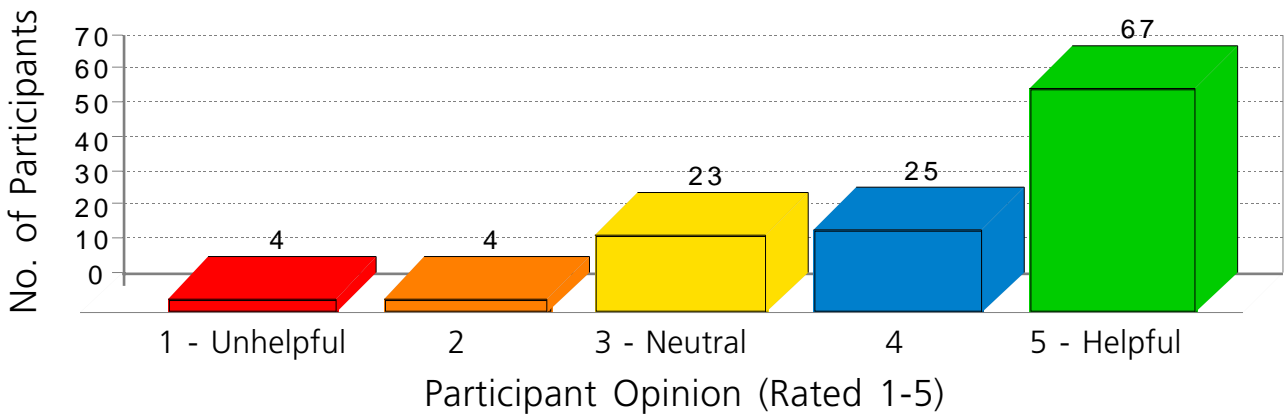
In terms of the speed of all the responses received from local authorities, 24 participants (20%) judged the speed to be slow, 33 participants (27%) judged it to be reasonable and, 64 participants (53%) judged their response to be better than reasonable or fast.

Speed of LA Responses

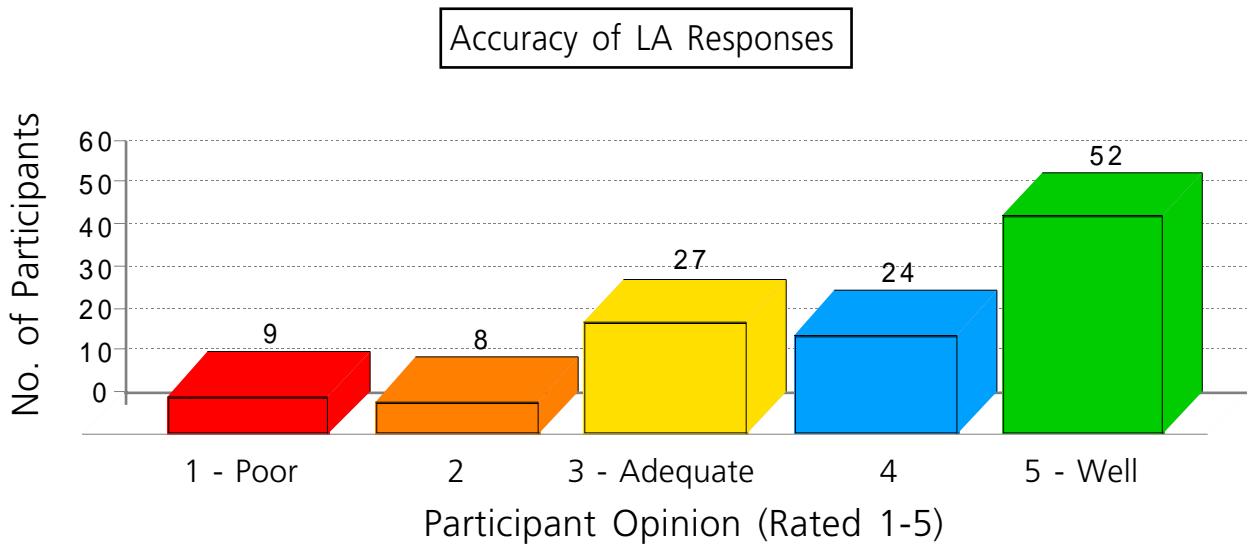


Local authorities scored most highly on tone of response with only 8 participants (7%) judging their response to be unhelpful in comparison to 92 participants (74%) who thought their response was helpful. The remaining 23 people (19%) judged the tone of their response to be neutral.

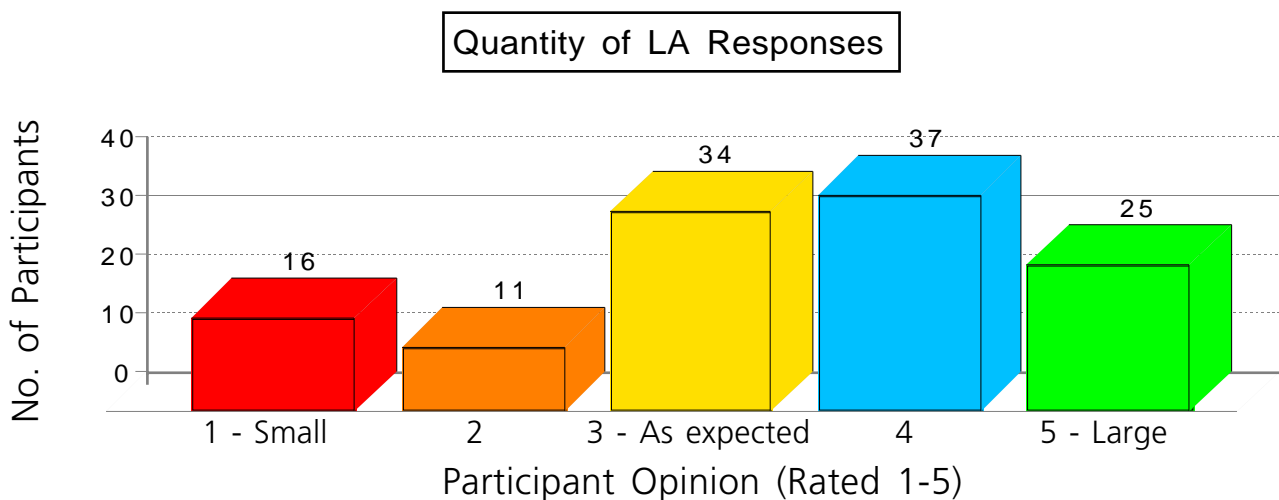
Tone of LA Responses



In terms of accuracy of responses, 17 participants (14%) felt the accuracy of their response to be poor, 27 (23%) felt it to be adequate and 76 (63%) felt it to be good.



Local authorities fared worse in terms of the quantity of the responses they issued. Only 34 participants (28%) judged the quantity of their response to be as expected, with 27 (22%) judging their response sub-standard.



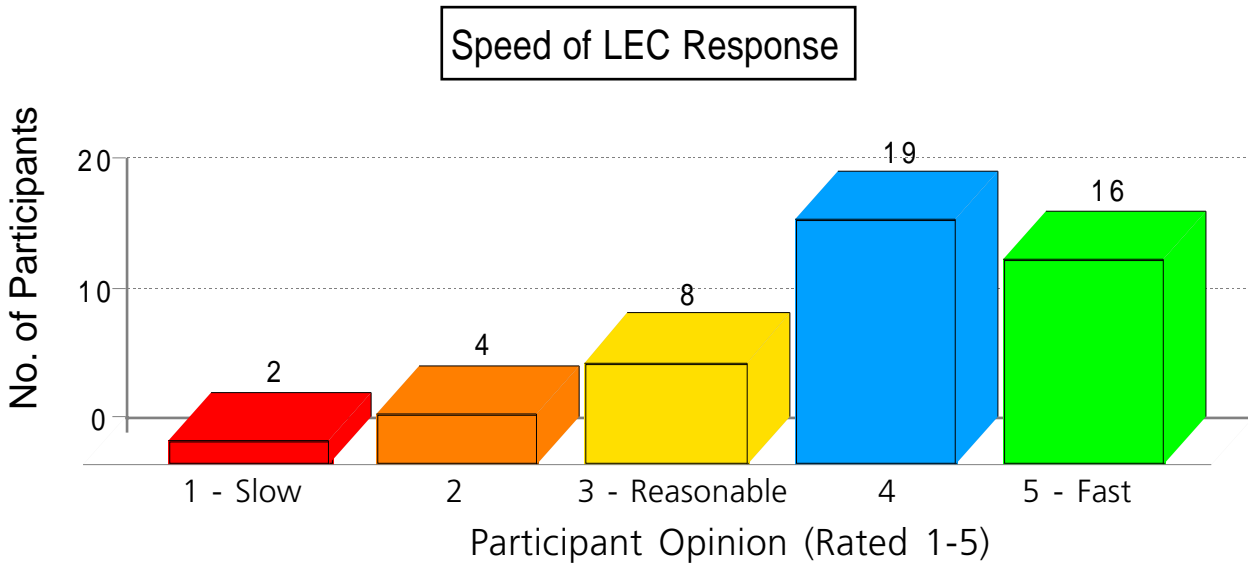
**BREAKDOWN**

The City of Edinburgh Council and Glasgow City Council received the most requests, 17 and 13 respectively. 5 responses from the City of Edinburgh Council took longer than 20 working days as did 4 responses from Glasgow City Council. The requests which did not receive any response were sent to: Glasgow City Council (x2), Highland Council (x2), North Ayrshire Council, Renfrewshire Council, South Ayrshire Council and Stirling Council.

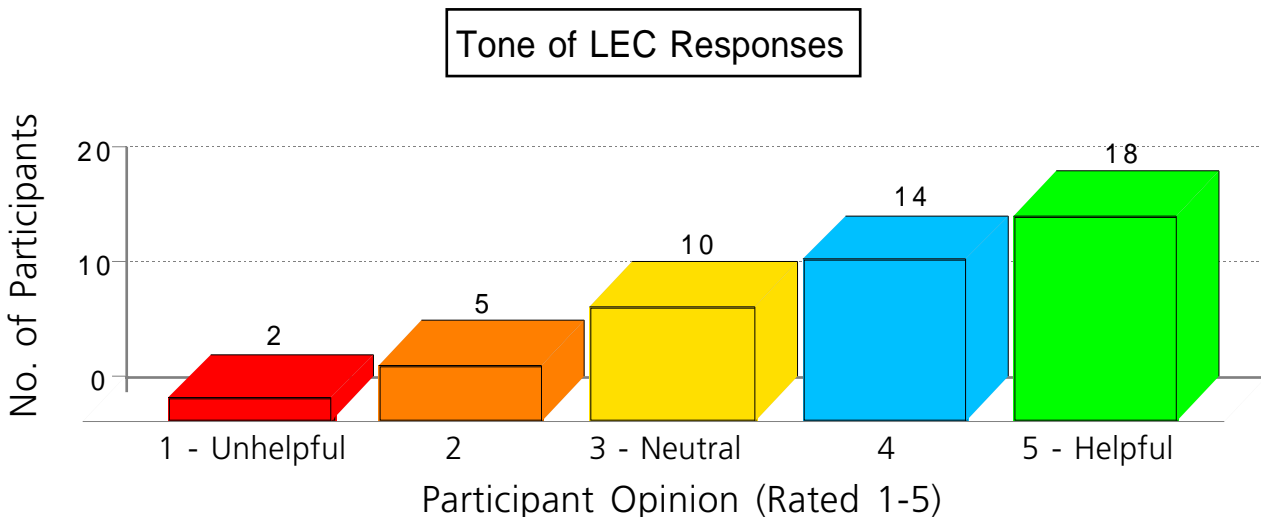
### 3.3 Local Enterprise Company Results

58 campaign participants made requests for information to their local enterprise company. 8 of them failed to receive a response and 2 of the 50 responses received took longer than 20 working days.

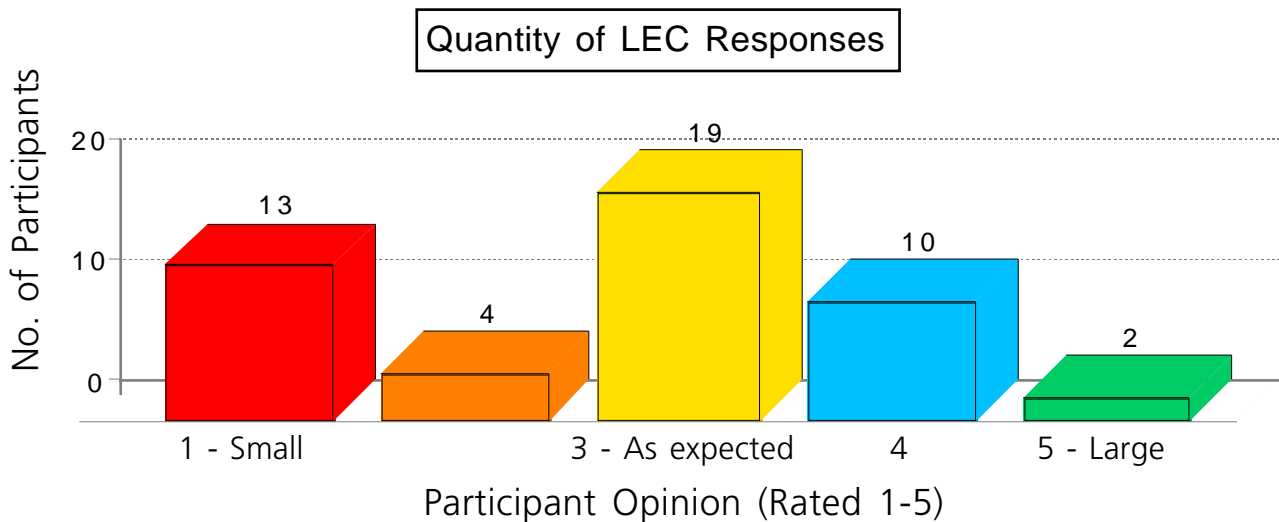
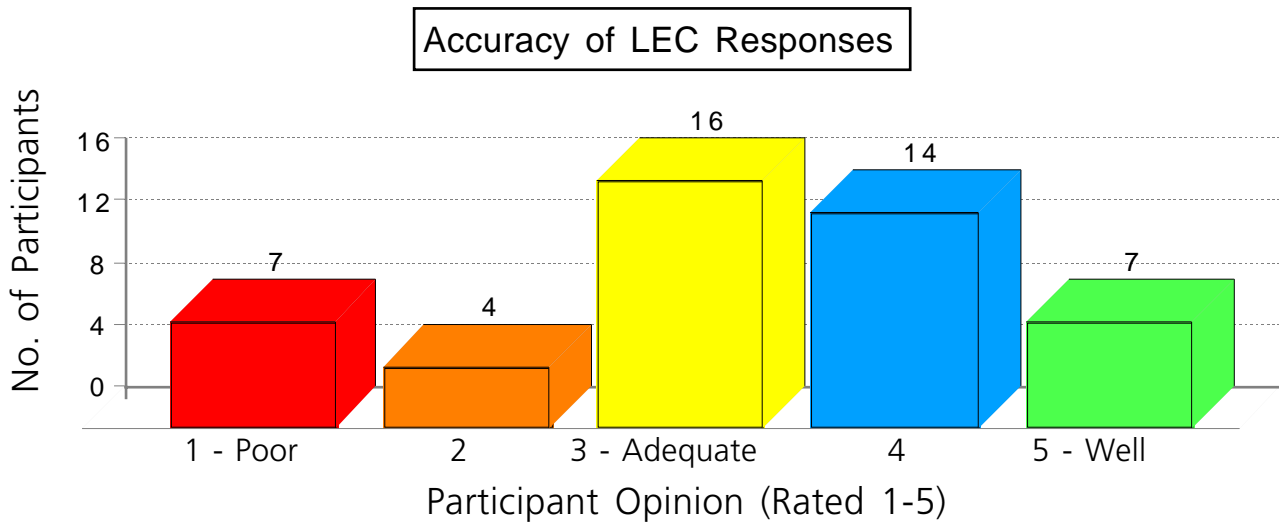
Compared to the tone, accuracy and quantity of local enterprise company (LEC) responses, campaign participants judged the speed of their responses most favourably. Only 6 participants (12%) judged their response to be slow.



When it came to the tone of local enterprise companies' responses 7 campaign participants (14%) thought their responses were unhelpful, 10 (20%) neutral and 32 (65%) better than neutral or helpful.



In terms of both accuracy and quantity of responses, local enterprise companies were found to be failing. 11 participants (23%) judged the accuracy of their response to be poor while 17 (35%) judged the quantity of their response to be small.



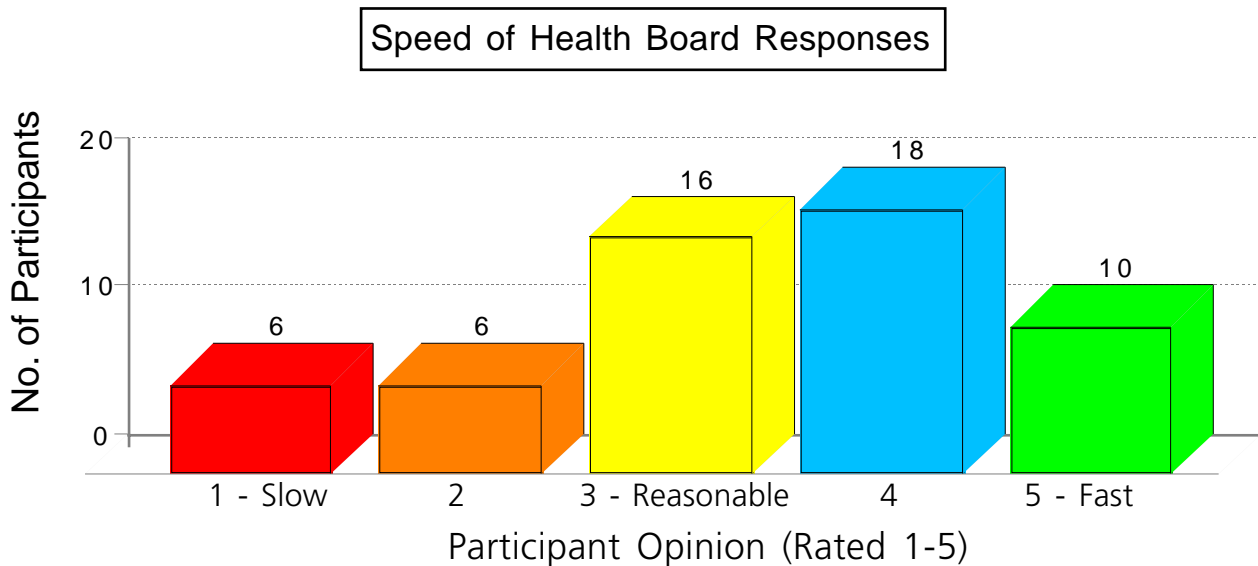
**BREAKDOWN**

Scottish Enterprise Edinburgh and Lothian received the most requests, with 11 people writing to them. Of these 9 received a response and all 9 arrived within 20 working days. After Edinburgh and Lothian, Tayside Enterprise received the most responses and came out as one the best local enterprise companies. It responded to all 8 requests it received very quickly. The requests which did not receive any response were sent to: Edinburgh and Lothian (see above), Scottish Enterprise Dumbartonshire (x2), Scottish Enterprise Fife, Scottish Enterprise Renfrewshire, Scottish Enterprise Argyll and the Islands and Scottish Enterprise Glasgow.

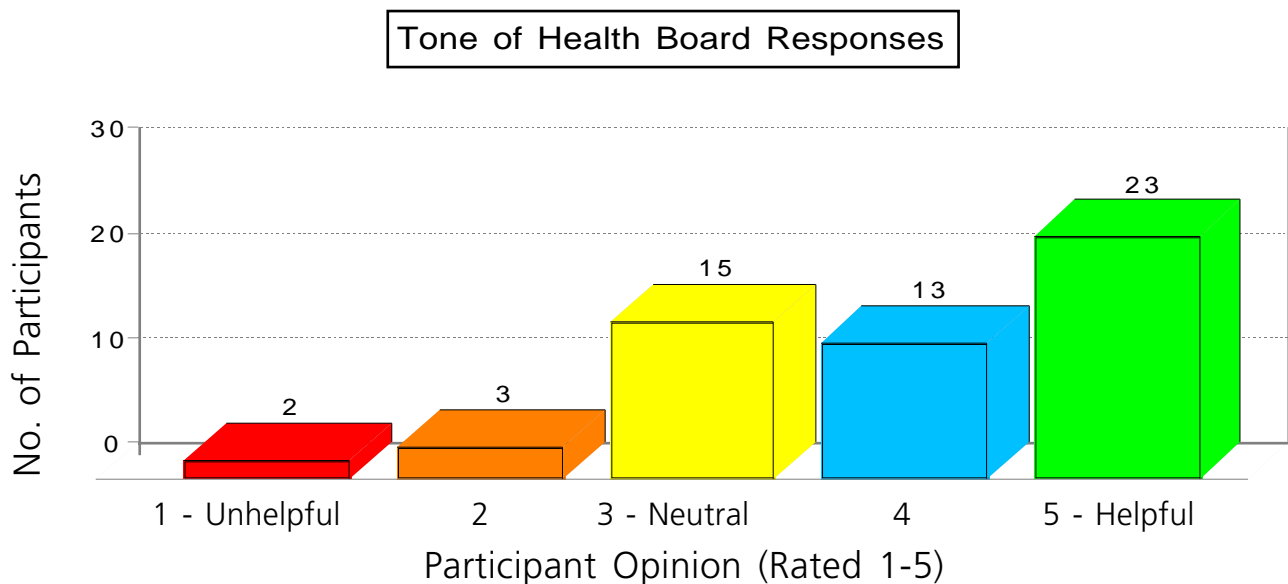
### 3.4 Health Board Results

62 requests for information were sent to 12 health boards throughout Scotland. 6 requests (10%) failed to receive a response and of the 56 responses 5 took longer than 20 working days.

12 participants (21%) judged the speed of their response to be slow, 16 participants (29%) judged the speed of their response to be reasonable and 28 participants (50%) judged the speed of their response to be fast.

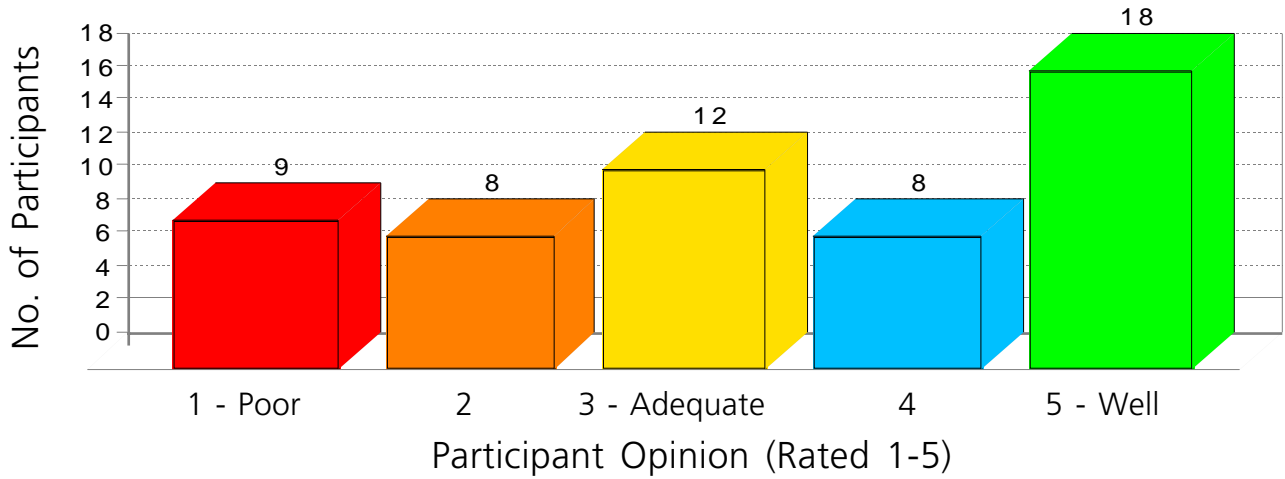


Health boards were judged most favourably in terms of the tone of the responses they sent. Only 5 participants (9%) thought their response was unhelpful, while 36 (64%) thought their response was better than neutral or helpful.

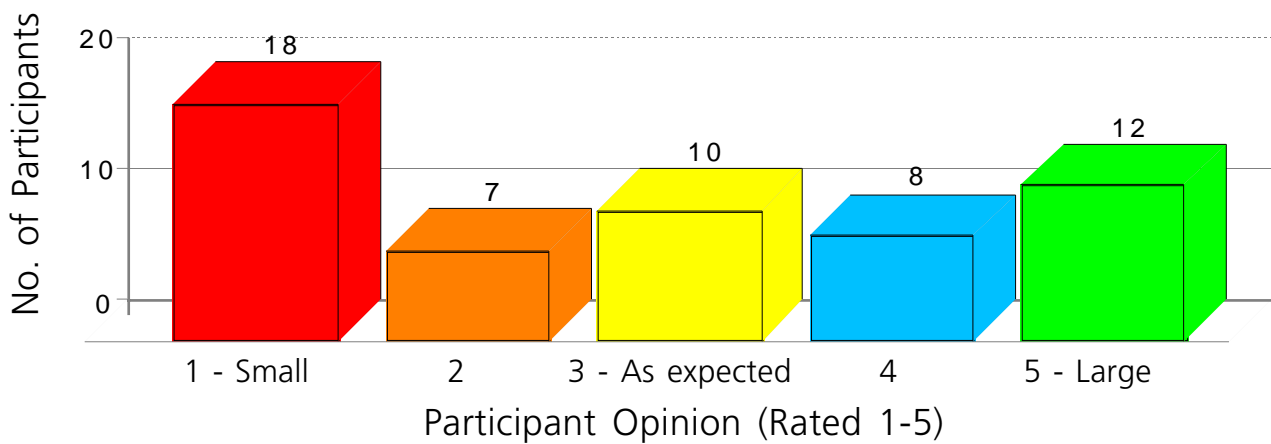


accuracy and the quantity of the responses they sent. 17 participants (31%) thought the accuracy of the response they received was poor and a huge 45% (25 participants) thought that the quantity of their response was small.

**Accuracy of Health Board Responses**



**Quantity of Health Board Responses**



**BREAKDOWN**

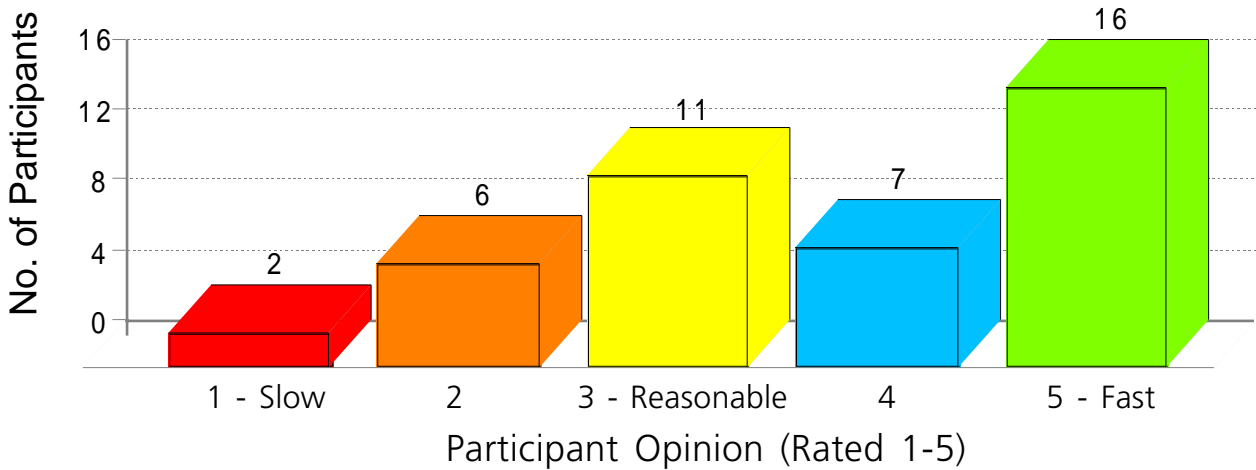
The requests which did not receive a response were sent to: Argyll and Bute Health Board, Ayrshire and Arran Health Board, Dumfries and Galloway Health Board, Forth Valley Health Board, Greater Glasgow Health Board, and Lothian Health Board.

**3.5 Scottish Environment Protection Agency Results**

The Access All Areas campaign generated 46 requests for information to the Scottish Environment Protection Agency (SEPA). 4 of these requests (9%) failed to receive a response, of the 42 that did, 3 took longer than 20 working days.

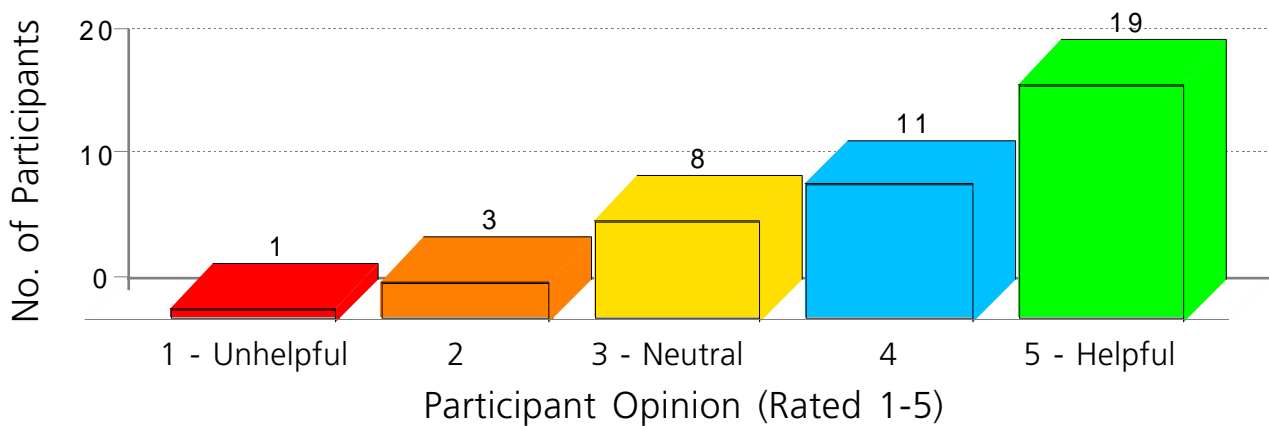
The speed of responses from SEPA were judged as follows: 8 (19%) slow, 11 (26%) reasonable, and 23 (55%) better than reasonable or fast.

Speed of SEPA Responses



The tone of SEPA responses got a more favourable judgment with 30 participants (71%) deeming their response to be helpful.

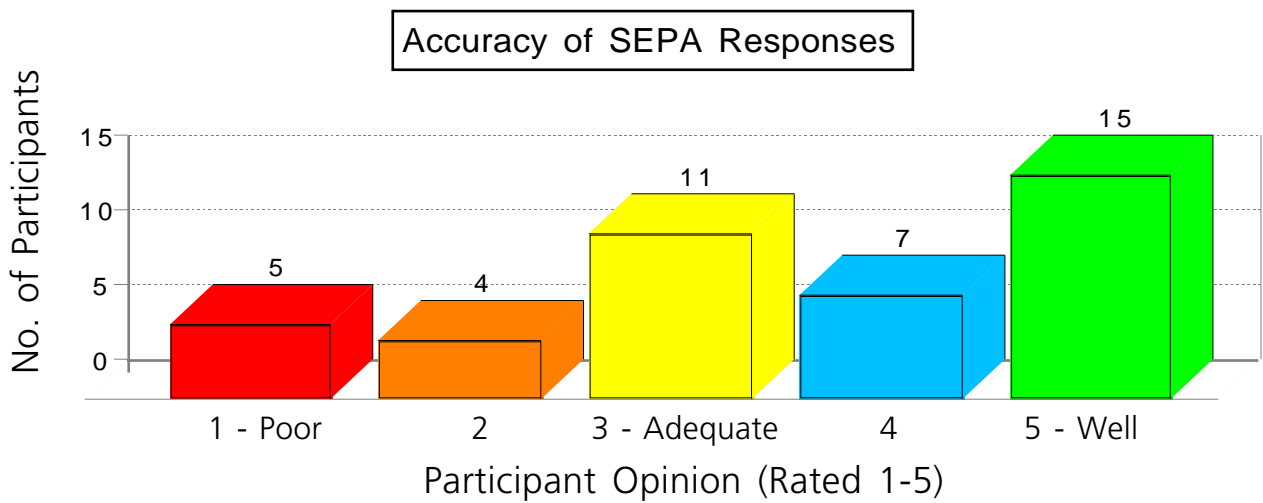
Tone of SEPA Responses



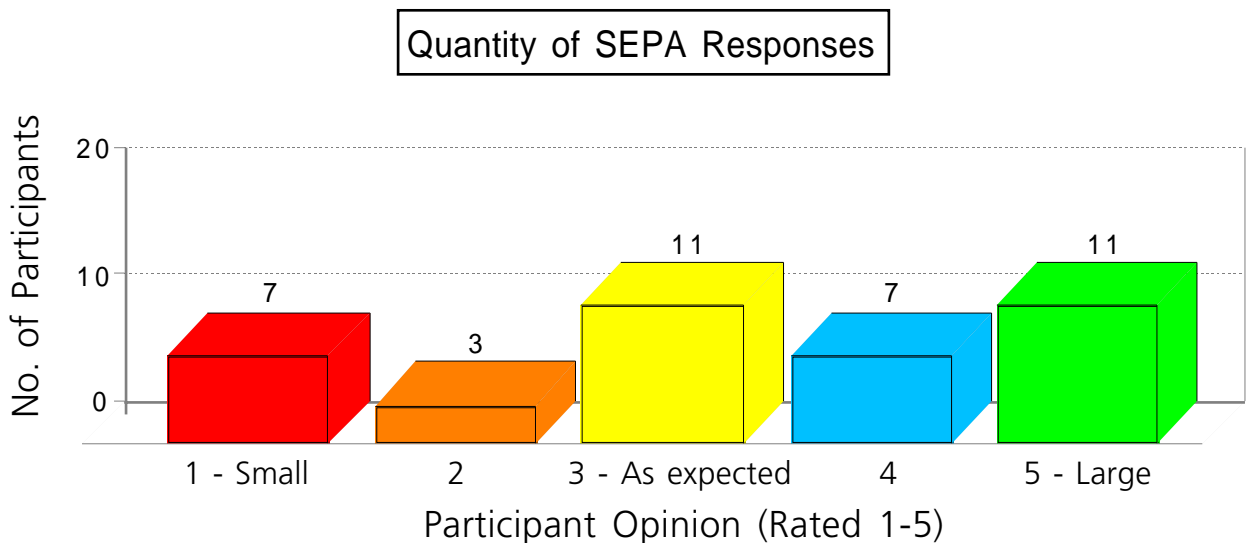
In terms of accuracy, 9 participants (21%) thought that their response was poor, 11 (26%)



thought that it was adequate and, 22 (52%) thought that it was better than adequate or good.



The judgment on quantity was fairly similar to that on accuracy. 10 participants (26%) judged the quantity of their response to be small, 11 (28%) judged the quantity to be as expected and 18 (46%) judged the quantity to be large.



**BREAKDOWN**

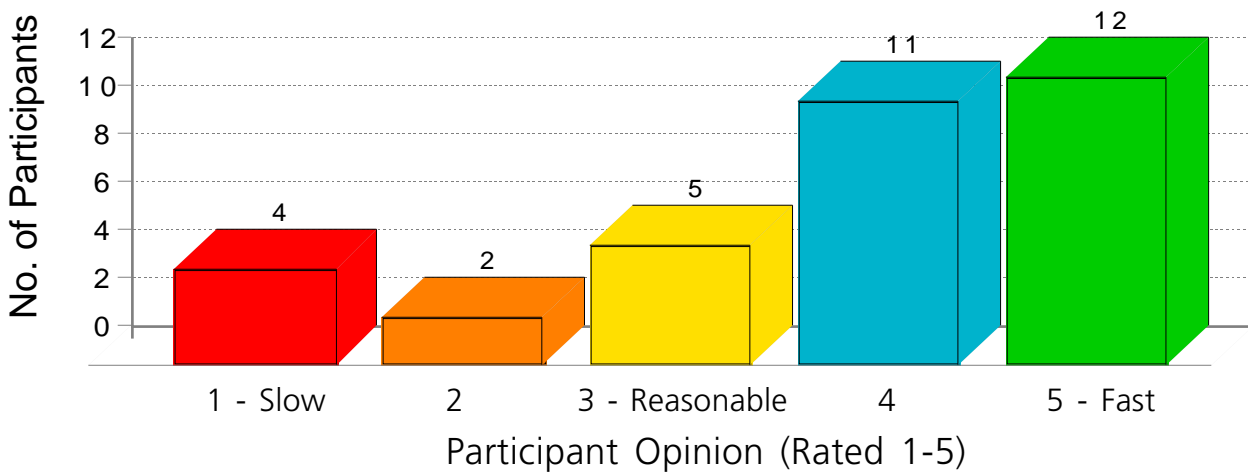
SEPA's Riccarton and Maryhill offices received the most requests, 12 and 9 respectively. 11 responses were received from Riccarton and 7 from Maryhill, two of which took longer than 20 working days. The only other request which did not receive a response was sent to SEPA's Dingwall office.

**3.6 Scottish Natural Heritage Results**

37 campaign participants sent requests for information to their local offices of Scottish Natural Heritage (SNH). 3 of these participants (8%) never received a response and 6 of the 34 responses (18%) took longer than 20 working days.

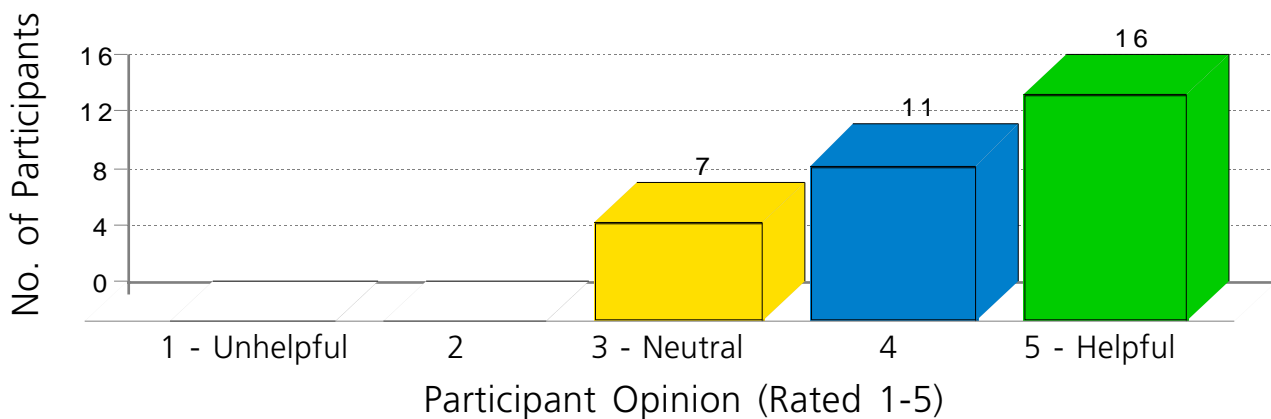
Speed of responses was SNH's weak point with 6 participants (18%) judging the speed of their response to be slow.

**Speed of SNH Responses**



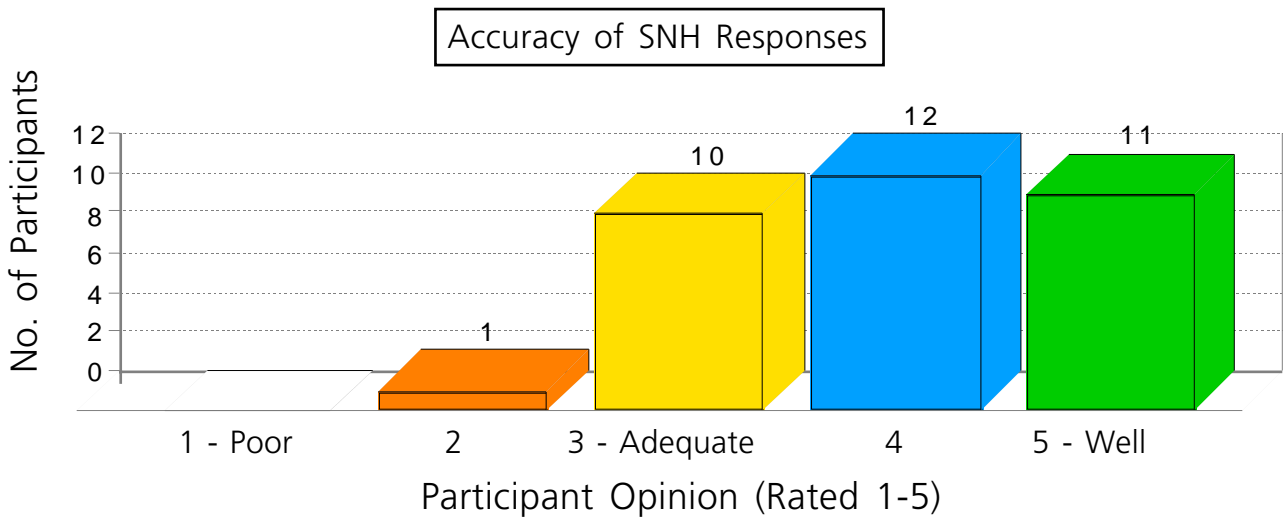
The tone of SNH's responses was unanimously deemed to be either neutral or, for the vast majority (79%), helpful in tone. No participants judged their response to be unhelpful.

**Tone of SNH Responses**

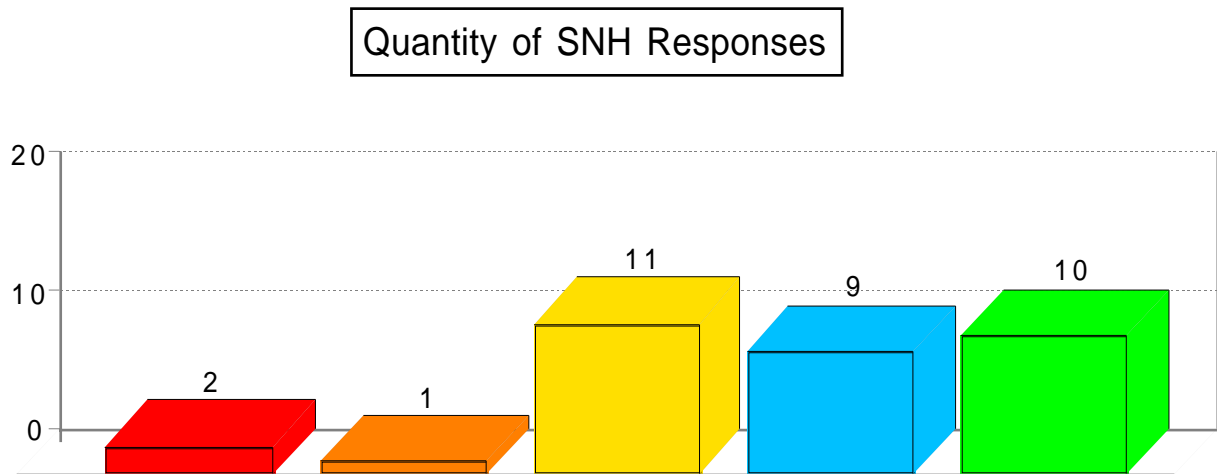


The same can almost be said when it comes to the accuracy of SNH's responses. Only 1

participant judged the accuracy of their response to be poor, 10 (29%) thought their response was adequate and 23 (68%) thought the accuracy was good.



In terms of quantity, 3 participants (9%) thought that the quantity of their response was small, 11 (33%) as expected and 19 (58%) large.



**BREAKDOWN**

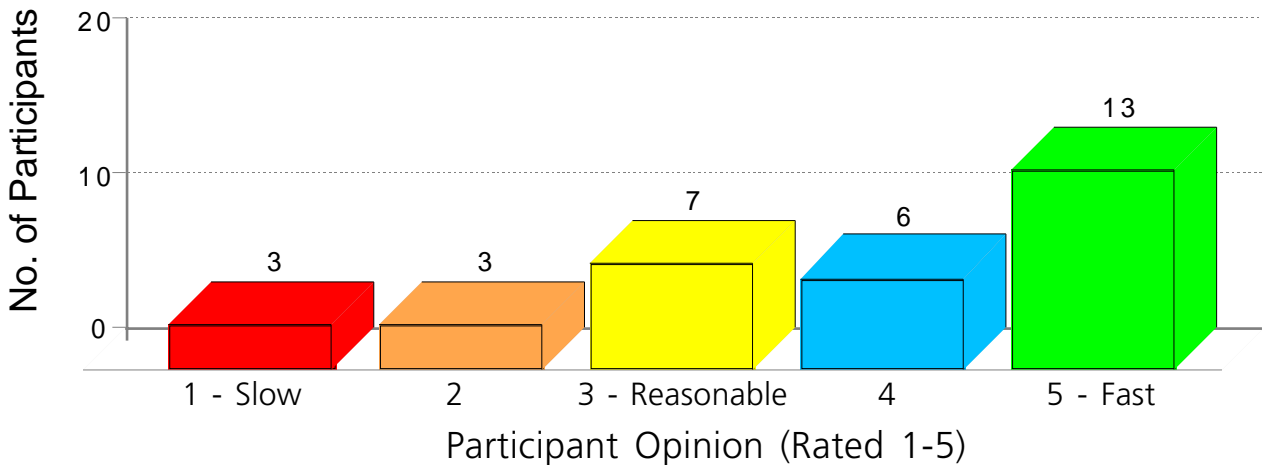
Dalkeith and Edinburgh's SNH offices received the most requests, 8 and 6 respectively. Of Dalkeith's 8, 6 received a response, 2 of which took longer than 20 working days. Of Edinburgh's requests, 1 never received a response and a further 1 took longer than 20 working days. No other requests failed to receive a response.

**3.7 Water Authority Results**

Scotland's three water authorities were collectively sent 34 requests for information. 2 requests (6%) never received a response and another 2 took longer than 20 working days to arrive.

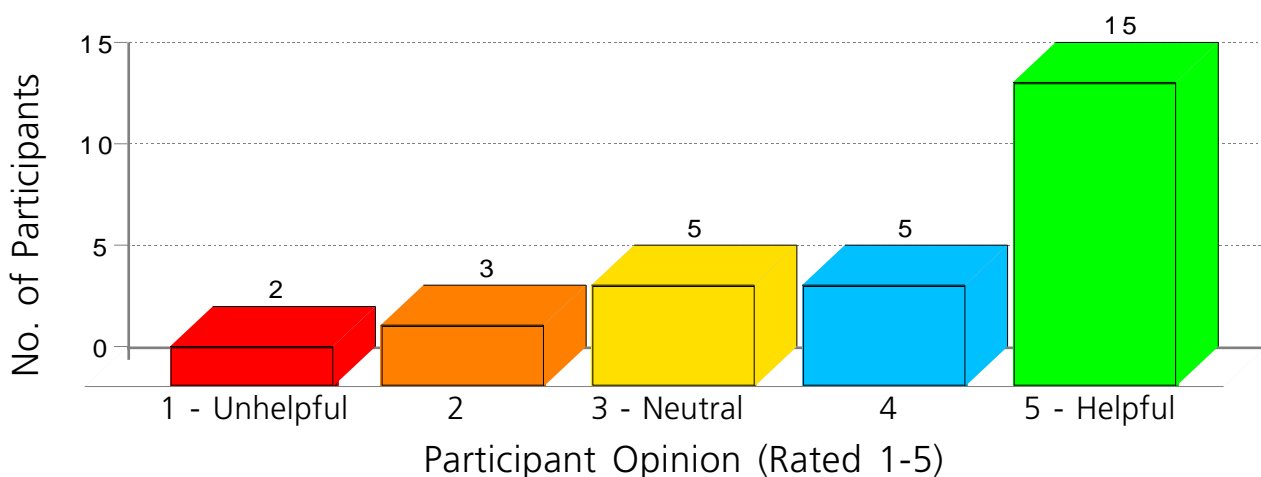
6 participants (19%) judged the speed of their response to be fast, 7 (22%) reasonable and 19 (59%) better than reasonable or fast.

### Speed of Water Authority Responses



The water authorities scored best on tone of responses but there were still 5 participants (17%) who felt their response was unhelpful; 20 (67%) thought the response they received was helpful.

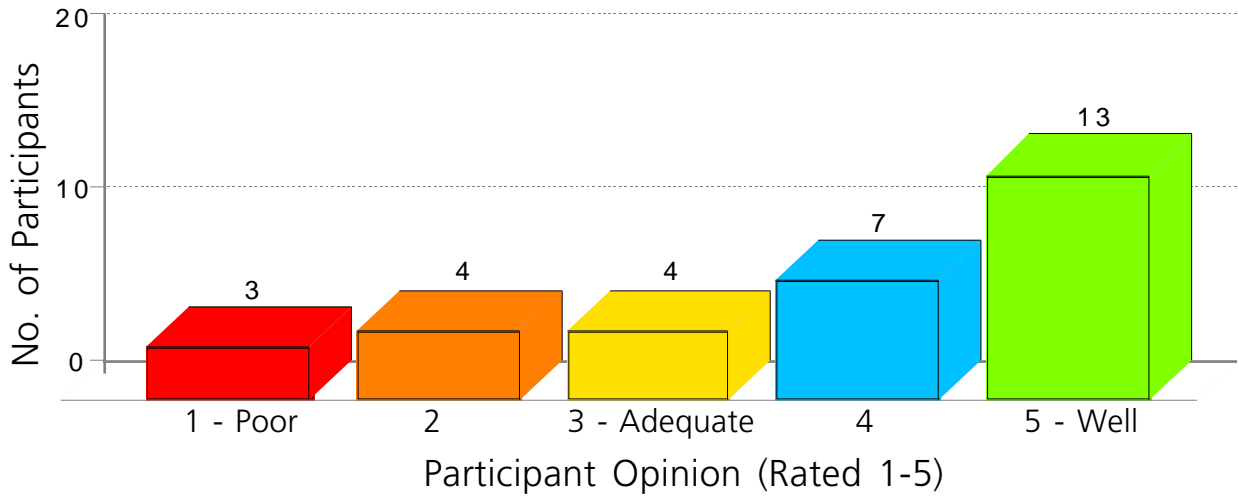
### Tone of Water Authority Responses



In terms of accuracy, 7 participants (23%) judged the accuracy of their response to be

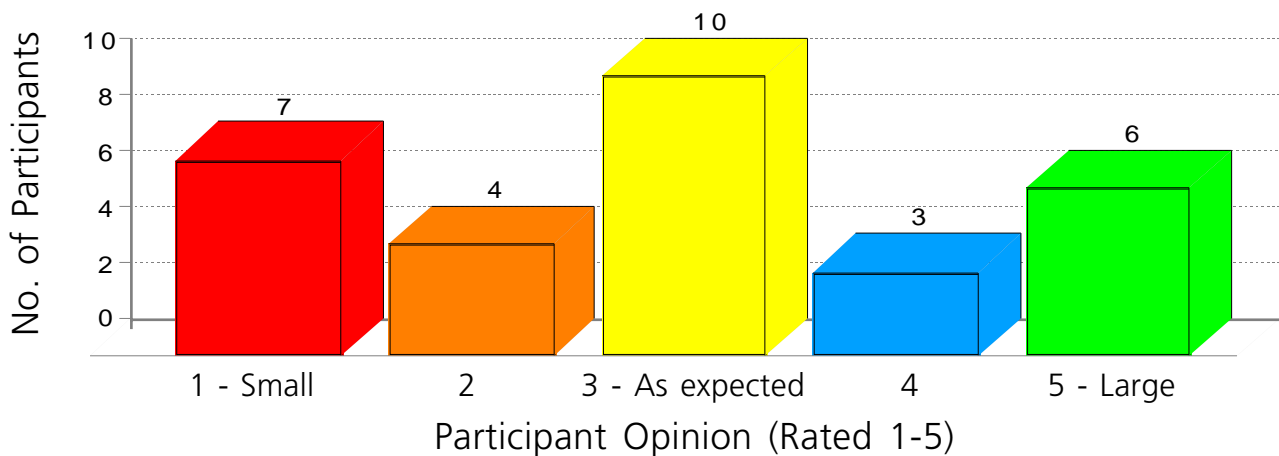
poor, 4 participants (13%) thought it was adequate and 20 participants (66%) thought it was good.

**Accuracy of Water Authority Responses**



The water authorities were judged to be worst when it came to the quantity of responses. 11 participants (37%) judged the quantity of their response to be small.

**Quantity of Water Authority Responses**



**BREAKDOWN**

West of Scotland Water was sent 16 requests, North of Scotland 10 and East of Scotland 9. Of the two requests which failed to receive a response one was sent to each of North of Scotland Water and West of Scotland Water. One request sent to North of Scotland Water and one sent to East of Scotland Water took longer than 20 working days.

**3.8 Other Authorities Tested**

To a lesser extent the Food Standards Agency, the Scottish Tourist Board and the Scottish Executive were also tested by the Access All Areas campaign. Due to the small numbers of requests sent to these bodies it would be inappropriate to analyse the results in the same way as before.

The Food Standards Agency was sent 8 requests for information, one of which did not receive a response and one of which took 39 working days for a response to be received. The responses which were received were on the whole judged very favourably.

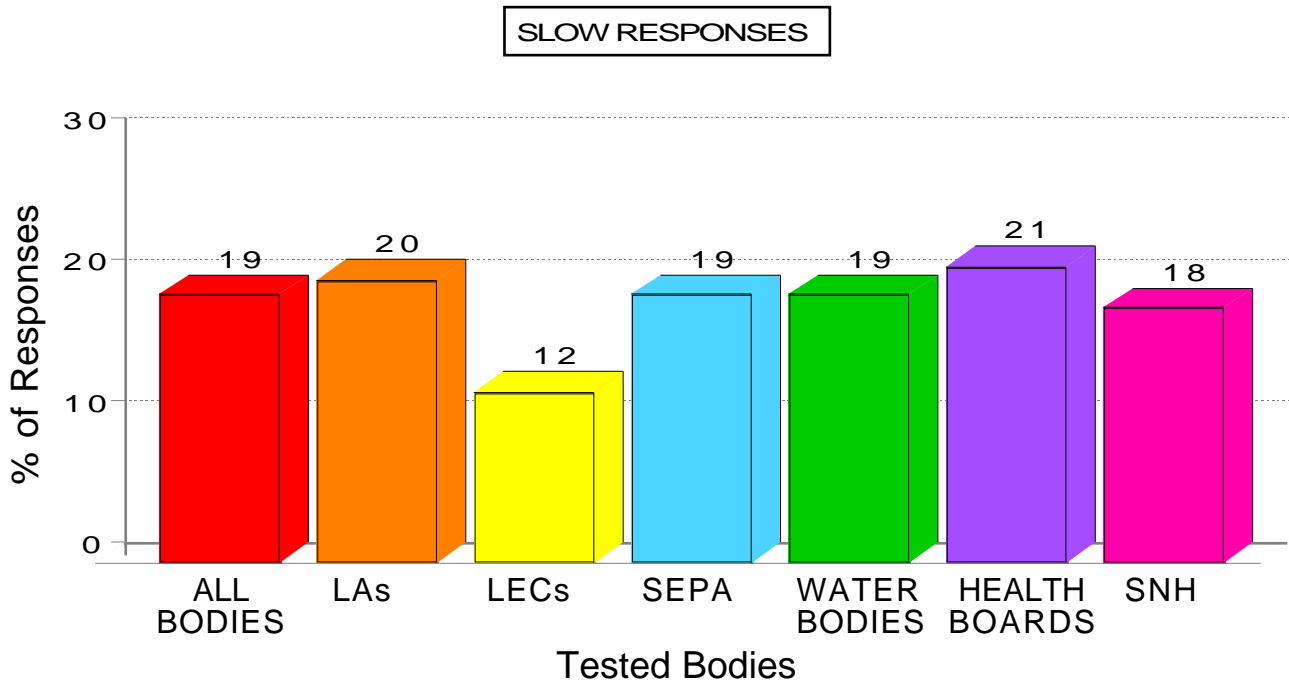
The Scottish Tourist Board was only sent 3 requests for information, again one of which failed to receive a response. The two responses received were both judged well and were received within 20 working days.

The Scottish Executive was also sent 3 requests, all of which received a reply within 20 working days. Two of the responses were judged favourably but the other, sent to the Rural Affairs Department, was judged to be inaccurate and small.

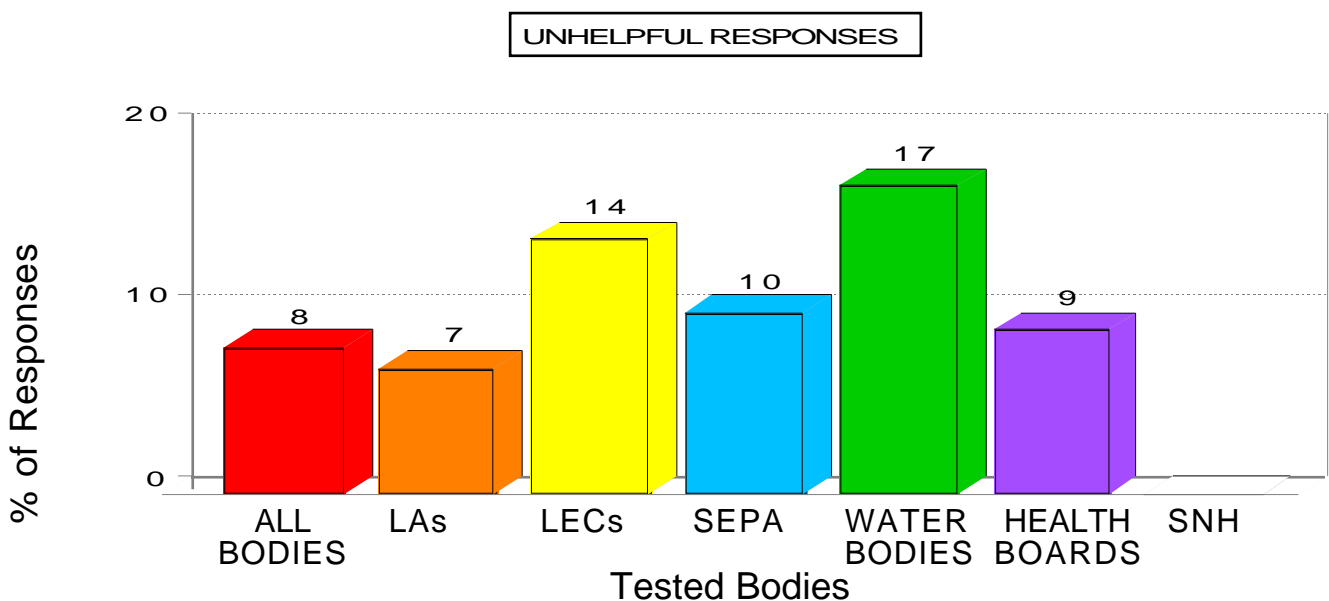
## **Chapter Four - Conclusions**

## 4.1 Comparative Results

The graph below demonstrates how all of the bodies tested compared with each other in terms of the speed of responses. As noted earlier, 19%, one fifth, of all responses were judged to be slow. Most bodies' were judged to have a very similar number of slow responses. Only the local enterprise companies deviated from this with only 12% of their responses judged to be slow.

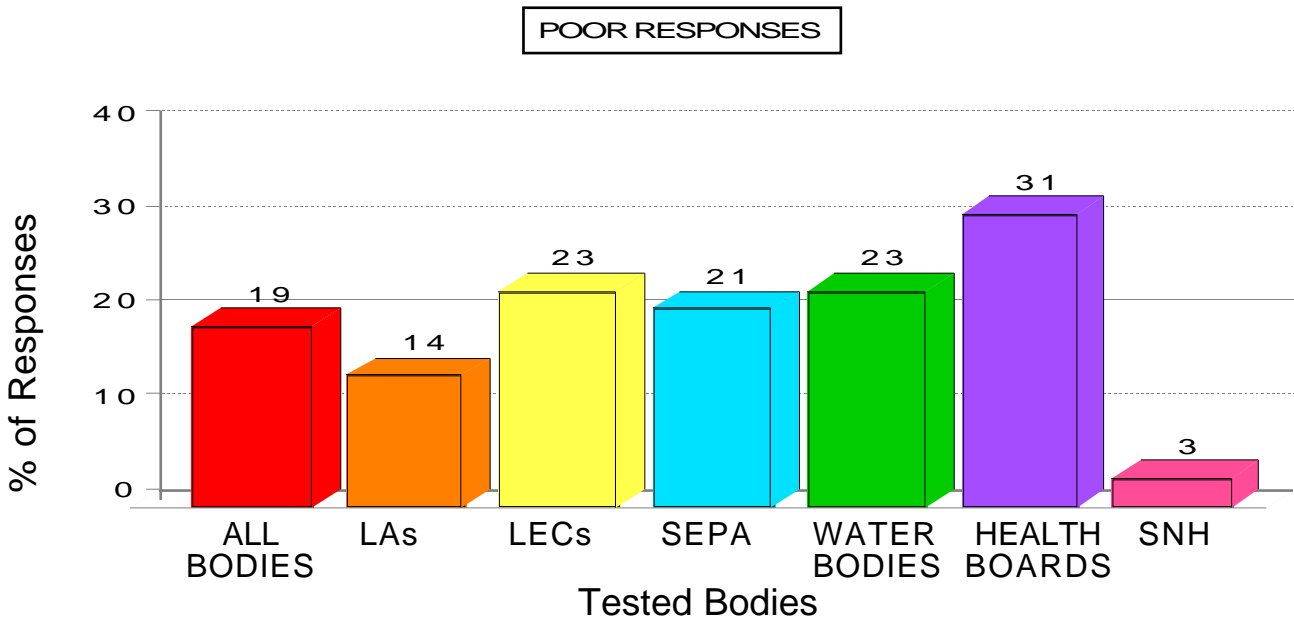


There is much greater deviation when it comes to how helpful responses are. 8% was the figure for the overall number of unhelpful responses but both local enterprise companies and the water authorities were judged to have a substantially higher number than that, 14% and 17% respectively. None of SNH's responses on the otherhand were judged to be unhelpful.

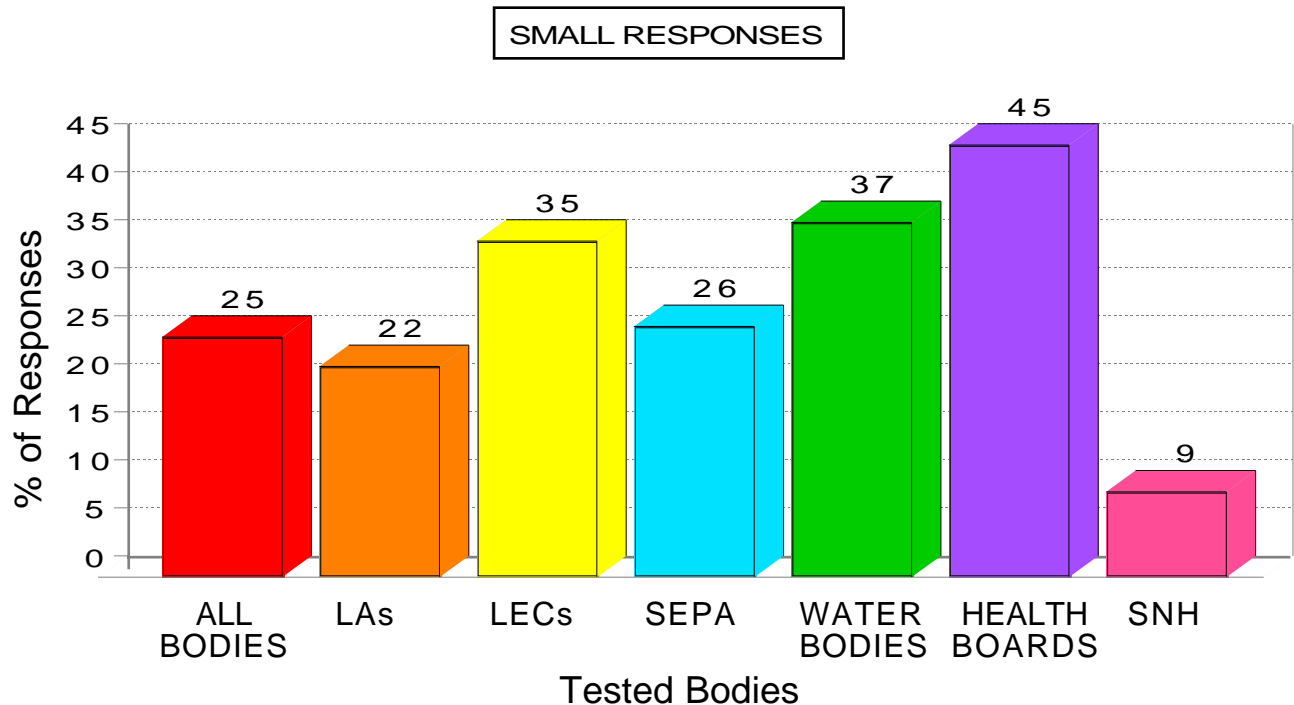


SNH was judged very well yet again in terms of quality, with only 3% of responses thought

of as poor. This contrasts greatly with the health boards which had 31% of their responses judged as poor.



The majority of bodies tested fared badly when it came to the quantity of their responses. Again health boards came out worst, with a very disappointing 45% of their responses judged as small, but all other bodies, with the exception of SNH, had a percentage of small responses numbering in the 20s or 30s.



## 4.2 The Lessons for Future Legislation



The speed, tone, accuracy and quantity of responses cannot be improved simply by setting time scales and introducing public interest tests. The culture of secrecy which has prevailed in Scotland's public authorities needs to be eradicated and replaced with a culture of openness backed up by a well resourced information system. This has definitely started to happen but more needs to be done. Scotland's first Freedom of Information Act is a great opportunity to achieve this.

The results have already shown that even when legislation is in place, in this case the Environmental Information Regulations (EIRs), public authorities do not necessarily comply with it. The new Freedom of Information regime must contain provisions which can ensure compliance. The Freedom of Information (Scotland) Act is an improvement on the EIRs in this respect as it creates the role of the Scottish Information Commissioner. The Scottish Information Commissioner (SIC) will be independent with the power to force authorities to release information by taking them to court if necessary.

It is crucial to the success of the Freedom of Information Act that this Commissioner is strong and independent but still this may not be good enough to ensure compliance.

Our evidence shows that timescales have not been followed to date but this is not because they are too constrictive. The questions asked by campaign participants were, on the whole, very simple and still almost 10% failed to receive a response within 20 working days. These failings suggest that either timescales need to be strictly enforced or/and authorities are not in a position to deal with numerous requests for information.

The results may suggest, therefore, that there is a need for more resources to be provided for authorities to deliver better archives and staff training. The Scottish Executive has maintained that as many public authorities are already operating freedom of information systems there is no need for additional resources. However, as the results presented here have shown some authorities are not operating freedom of information systems very well.

Clear guidance on charging must also be given. While charging has not been looked at in any great detail and very few examples of public bodies requiring payment arose there were a couple of cases which require further scrutiny. One such case relates to requests to local authorities for local plans. While several local authorities send copies of their local plans without any charge, Falkirk Council stated that their plan could be viewed free of charge but that to receive a copy would cost £10. Renfrewshire Council responded similarly to a request for air quality statistics, stating that reports on 7 pollutants were available to view but, again, would cost £10 each to purchase. The provision in the new Freedom of Information Act that any freedom of information request costing less than £100 to meet should minimise these discrepancies. The introduction of maximum charges for hourly rates, photocopying and the like would also prevent authorities charging too much. These should be included in a Code of Practice to go along with the Freedom of Information Act.