

Performance – Freedom of Information and Subject Access Requests

Update for Place and Resources Scrutiny Committee – 25 May 2023

The Place and Resources Scrutiny Committee discussed the current performance of the Council's Freedom of Information (FOI) and Subject Access Requests (SARs) at the meeting on 30th March. A number of the indicators are consistently showing as "red" and the committee requested further information on the action being taken to improve performance.

The Information Compliance team within Assurance Service are the custodians of the data, but the performance issues largely relate to individual Directorate compliance. Within this position statement, I will provide further information on the compliance issues and the actions being taken to improve performance across the Council. For information, the Audit and Governance Committee will receive an Information Governance Update report at its meeting on 12 June 2023, which will include reporting on both FOI and SARs.

Freedom of Information Requests

The FOI Act 2000 provides public access to information held by public authorities. The Act sets out a requirement for information requests to be responded to within twenty working days, although there is an opportunity to agree an extension of up to an additional twenty working days in some limited circumstances. There are currently a range of FOI key performance indicators (KPI):

- i) Percentage of FOI requests answered on time (whole Council, and each Directorate);
- ii) Number of Overdue FOI requests (whole Council, and each Directorate);
- iii) Average number of days FOI requests are overdue (whole Council, and each Directorate)

The Information Commissioners Office's expected compliance rate for answering FOIs on time is 90%, which would be recorded as "Green" on the performance dashboard. Between 80 and 90% is recorded as Amber, and below 80% shows as Red. During 2022/23, whole Council performance was recorded as Amber for 10 of the 12 months (three of which were very close to the 90% target), with December 23 and February 23 showing as Red (but still above 75% compliance). Performance has notably improved from compliance rates in 2021/22. At a Directorate level, there is no consistent trend, with it quite common from a "Red" indicator to turn "Green" the following month (and vice versa), particular for those services generating few requests.

The second two KPIs are generally showing as "Red" on the basis that they are focussed on overdue requests, and therefore red by default. Realistically, some lack of compliance with timescales can always be anticipated, particularly where FOIs are complex. The tolerance levels aligned to these two KPIs are currently being reviewed, to show a more realistic picture.

The Information Compliance Team continue to provide regular management information to Directorates to improve their compliance rates. Performance will be monitored by the new Strategic Information Governance Board, with intervention as appropriate where poor performance is identified.

Subject Access Requests

Under the General Data Protection Regulations, individuals have the right to access and receive a copy of any personal data held about them – this is commonly referred to as a SAR. An organisation normally has one month to respond to the request, but if they are particularly complex or are made up of a number of requests, an extension of up to two additional months can be

agreed. Of the 202 SARs received during 2022/23, 146 (72%) relate to childrens services, with a high number of large and sensitive care leaver SARs.

There are currently a range of SARs KPI's:

- i) Percentage of SARs answered on time (whole Council, and each Directorate);
- ii) Number of overdue SARs (whole Council, and each Directorate);
- iii) Average number of days SARs are overdue (whole Council, and each Directorate)

Similar to FOI, the Information Commissioners Office's expected compliance rate for answering SARs on time is 90%, which would be recorded as "Green" on the performance dashboard. Between 80 and 90% is recorded as Amber, and below 80% shows as Red.

Historically Dorset Council, and previously Dorset County Council, has struggled to comply with SARs timescales. The number of SARs received has increased by approximately 24% every year. All quarters reported for 2021/22 were showing as red, with compliance rates circa 50% and a significant backlog of cases, some way over twelve months old. Childrens Services established a dedicated SARs team, and the 2fte resource transferred to the Assurance Service in January 2022 so that it could be aligned with the skillsets in the Information Compliance Team. Other Directorates continue to largely manage their own SARs at this point in time. Whilst still falling generally below the 90% target, significant improvements have been made, and the backlog of cases largely processed (just three outstanding). Two of the four quarters were reported as "Amber" during 2022/23, rather than consistently "Red", whilst the Childrens Services caseload even exceeded the 90% target (green) in one quarter.

The improvement within the Childrens Services SARs delivery becomes clearer when analysing the complexity of SARs, during the last quarter (a statistic which is not reflected within our current set of KPIs):

Standard complexity – 100% of the 22 requests handled within timescales (Green)

Complex – 100% of the 7 requests received handled within timescales (Green)

Very complex – 14% of the 7 requests received handled within timescales (Red)

This clearly demonstrates a positive improvement, whilst recognising that challenges remain for very complex cases. It is anticipated that the performance of these very complex SARs should gradually improve now that the backlog has been managed down, but the largest cases will remain a challenge, even when the extension is maximised. However, where this is the case, we try to negotiate with the requestor that requests are split into more manageable and prioritised responses. Cases above team capacity and/or deemed very complex are largely being outsourced to an external provider, which has improved performance, albeit at cost to Childrens Services. A redaction software project is underway to look to improve team efficiency further.

Due to the low numbers of SARs across Adults, Place and Corporate Services, a failure to meet timescales on a single case can be sufficient to turn the Directorate level KPI "red". There may be some appetite to explore integrating delivery of other Directorate's SARs into the corporate team, particularly with Adults SARs anticipated to increase.

As with FOIs, the second two SARs KPIs are generally showing as "Red" on the basis that they are focussed on overdue requests. Realistically, some lack of compliance with timescales can always be anticipated, particularly where SARs are complex. As with FOIs, the tolerance levels aligned to these two KPIs are currently being reviewed, to show a more realistic picture.

Marc Eyre, Service Manager for Assurance – 24 April 2023