

Place and Resources Scrutiny Committee

24 October 2024

Public (Freedom of Information) and Environmental Information Requests

For Review and Consultation

Cabinet Member and Portfolio:

Cllr N Ireland, Leader of the Council, Climate, Performance and Safeguarding

Executive Director:

J Mair, Director of Legal & Democratic

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Report Status: Public (the exemption paragraph is N/A)

Brief Summary:

The Place and Resources Scrutiny Committee considered a performance update at the meeting on 30 July 2024 which highlighted a number of red indicators relating to Council performance in responding to Freedom of Information requests in line with statutory deadlines.

Recommendation: To note the performance of information requests and actions taken to improve efficiency.

Reason for Recommendation: Demonstrating good information governance.

1. **Background**

- 1.1 The Freedom of Information Act 2000 (FOI) and Environmental Information Regulations 2004 (EIR) gives a general right of access to information held by public authorities. During 2023/24, the Council received 1,358 requests – approx. 113 per month. The Information Commissioners Office anticipates 90% compliance with the statutory response timescales of 20 working days. Where a requestor is unhappy with a response, they are entitled to an “internal review”, and if they remain dissatisfied can escalate to the Information Commissioner.
- 1.2 At the meeting of the Place and Resources Scrutiny Committee on 30th July 2024 a report to clarify performance was requested, to include an understanding of trends, barriers experienced in meeting statutory timescales and actions being taken to improve the position.
- 1.3 Public and Environmental Information Requests are received by, and facilitated by, the Information Compliance Team based within the Assurance Service. In addition to managing these information requests, the team also manage data breaches, guidance on data protection and associated legislation, and a range of other information requests (for instance Subject Access and Law Enforcement requests). A detailed report on information governance activity is presented annually to Audit and Governance Committee, and the July 2024 paper can be viewed [from this link](#).
- 1.4 Within the team, which is led by the Data Protection Officer, there are four part-time Information Compliance Officers (equivalent to 79.5 hours) handling public and environmental information requests; law enforcement requests and data breaches. Their work is overseen by a Senior Information Compliance Officer (SICO), who provides a steer on interpretation of legislation and application of exemptions. Where possible the SICO does not get too involved in the initial request, as they will generally undertake the statutory internal review, in the event that a requestor is unhappy with the response. There are occasions where the SICO does hold a caseload, where there are particular resource pressures, but in such cases any resultant internal reviews have to be escalated to an already over-committed Data Protection Officer.
- 1.5 Sourcing and compiling of the response is undertaken by the relevant service that holds the information requested. The Information Compliance

Team will assist services in interpretation of the request, compliance with legislation, identification of exemptions, and often redaction of personal information. The team will also interact with the requestor, and issue the final response. In most cases, responses are then made public, via a published [disclosure log](#).

- 1.6 Under the Freedom of Information act, requests are purpose blind. Therefore the Council is duty bound to disclose documentation that is held, regardless of whether the request has come from an individual, the press, a commercial venture etc, unless we are able to engage an exemption (but these are limited). It is outside the authority of any officer to withhold the information, unless an exemption can be justified. There are occasions where requests may be deemed vexatious, and in such cases these can be refused at the discretion of the Data Protection Officer.

2. Performance

- 2.1 Performance on responses is reported on a monthly basis, both at a whole Council level and performance of individual Directorates. Compliance with the Information Commissioners' 90% response rate within statutory timescales constitutes "green"; 80-90% is "amber"; and below 80% is reported as red. Performance since April 2023 is shown below, with number of requests included in brackets:

	Whole Authority	Adults & Housing	Childrens	Corporate	Place
Aug 24	86% (119)	70% (20)	70% (23)	97% (37)	92% (39)
Jul 24	84% (106)	91% (11)	63% (8)	84% (43)	86% (44)
Jun 24	82% (114)	55% (11)	65% (20)	84% (44)	95% (37)
May 24	85% (127)	94% (16)	67% (15)	87% (39)	86% (56)
Apr 24	91% (137)	79% (14)	80% (10)	98% (45)	90% (67)
Mar 24	81% (111)	64% (11)	74% (19)	81% (43)	89% (36)
Feb 24	88% (165)	88% (17)	79% (19)	92% (63)	86% (64)
Jan 24	85% (82)	67% (9)	71% (7)	94% (31)	86% (35)

	Whole Authority	Adults & Housing	Childrens	Corporate	Place
Dec 23	76% (114)	67% (15)	74% (19)	80% (35)	78% (45)
Nov 23	77% (111)	75% (12)	50% (12)	83% (42)	78% (45)
Oct 23	80% (99)	90% (10)	81% (16)	77% (35)	79% (38)
Sep 23	88% (122)	100% (23)	87% (15)	80% (35)	88% (48)
Aug 23	83% (123)	67% (9)	67% (18)	80% (50)	96% (45)
Jul 23	86% (125)	100% (12)	75% (12)	85% (55)	85% (46)
Jun 23	85% (108)	81% (16)	63% (8)	90% (39)	86% (44)
May 23	91% (97)	85% (13)	83% (12)	90% (39)	97% (33)
Apr 23	80% (101)	79% (14)	75% (12)	79% (38)	84% (37)

2.2 As can be seen in this chart, performance has generally improved overtime. Corporate Services and Place functions are generally at, or close to, the 90% compliance. Work will be initiated with Adults and Childrens Directorates to better understand the challenges with meeting timescales. It should be noted that, whilst case numbers are low for Childrens Services, this report excludes Subject Access Requests (data protection requests for personal information held by the Authority) which are generally far more onerous to respond to and more often then not relate to our Adults and (in particular) Childrens Services areas. An example of this are requests from care leavers seeking information on their life story.

2.3 A limitation with this performance metric is that it does not differentiate between requests that miss the statutory timescale by one day, to those that remain outstanding for a prolonged period. From 1st April 2024 reporting now includes the number of requests that are over 60 days overdue (ie have taken over 80 days to respond to).

	Adults & Housing	Childrens	Corporate	Place
Aug 24	1/20	1/23	1/37	0/39
Jul 24	1/11	1/8	1/43	0/44
Jun 24	1/11	0/20	1/44	0/37
May 24	1/16	0/15	0/39	0/56
Apr 24	1/14	0/10	1/45	0/67

- 2.4 Non-compliance with timescales can be as a result of a number of factors. This includes complexity of the request; consideration and justification of exemption criteria; service capacity pressures; a surge in requests on a specific subject impacting on a single service area; or absence of key individuals.
- 2.5 The Information Compliance team attempt to log and issue the information request to the relevant service within two working days of receipt, to maximise the amount of time that the service has to source the information. If the service respond back on, or close to, the statutory timescale it can be challenging for the team to review, redact and respond to the requestor in the timeframe, so some cases will only slightly miss the date.
- 2.6 Due to an increase in wider caseloads (including data breaches), Information Compliance team members are exceeding target caseloads per FTE, and in some months double the workload deemed reasonable. Work is underway to provide a degree of automation to ease capacity pressures. The first step, to automate chasing of services once statutory timescales are close to being exceeded, and ongoing reminders, is due to go live imminently. The viability of automating the logging and allocation of requests has also been explored, but is not technically viable at this point in time.
- 2.7 In view of the current work pressures, a 12 month interim additional FTE team member has been approved, whilst further efficiency opportunities are explored. This will be reviewed throughout the year to understand whether automation and other efficiency opportunities have been effective in reducing caseload. This does however only attempt to assist with

capacity issues in the Information Compliance team, not the services themselves that are sourcing the requested information, and undoubtedly are subject to conflicting pressures.

- 2.8 A monthly report is provided to Directorate management teams setting out those requests that have missed the statutory timescale, and the number of days overdue, to enable management to intervene.
- 2.9 The Operational Information Governance Group will be reviewing the extent that information that is required or recommended to be published under the publication scheme is transparently available on the Council's website. This may negate the need for some requests, or at least enable the team to more easily sign-post to the relevant information. Similarly, common requests can be accessed via the Disclosure Log, rather than requiring a new application.
- 2.10 The Freedom of Information process was subject to a SWAP internal audit in April 2022, with an audit opinion providing a "reasonable" level of assurance. It noted that there is a generally sound system of governance, risk management and control in place.

3. **Financial Implications**

None

4. **Natural Environment, Climate & Ecology Implications**

None

5. **Well-being and Health Implications**

None

6. **Other Implications**

None

7. **Risk Assessment**

- 7.1 HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

8. **Equalities Impact Assessment**

None

9. **Appendices**

None

10. **Background Papers**

None

11. **Report Sign Off**

- 11.1 This report has been through the internal report clearance process and has been signed off by the Director for Legal and Democratic (Monitoring Officer), the Executive Director for Corporate Development (Section 151 Officer) and the appropriate Portfolio Holder(s).