

Governance Update

SUMMARY

- 1.1 This report provides Members of the Committee with an update on governance issues covered by the Council's Governance and Assurance section.

RECOMMENDATION

- 2.1 To note the report.

REASONS FOR RECOMMENDATION

- 3.1 The Audit and Accounts Committee is responsible for providing assurance to the Council on the effectiveness of the governance arrangements, risk management framework and internal control environment.

SUPPORTING INFORMATION

4.1 This update reports covers the following governance areas:

- Freedom of Information Act 2000 / Environmental Information Regulations 2004
- Data Protection Act 1998
- Insurance – half year statistics
- Anti-Fraud Work
 - National Fraud Initiative
 - Anti- Money Laundering
 - Anti- Bribery
- Whistleblowing
- Regulation of Investigatory Powers Act 2000

Information Governance:

Freedom of Information (Fol) /Environmental Information Regulations (EIR):

- 4.2 For the calendar year to 31 October 2016, the Council has received 1,260 FOI and EIR requests. Compared to 2015 there has been a 13% increase in the requests received in 2016 for the 10 month period under review. The figures by month of requests received and responded to between 1 January 2016 and 31 October 2016 are shown in Table 1 below. The table also provides a comparison to the level of requests received for the same period in 2015.

Table 1 : Fol and EIR Requests Received in 2016:

2016 Month	Total New Requests Received (Fol + EIR)	Fol Requests Received	Closed Fol's met within statutory timescale	Closed EIR's met within statutory timescale	Received 2015	Change
January	117	107	94%	100%	112	+5
February	147	140	97%	100%	122	+25
March	150	147	95%	100%	129	+21
April	124	121	96%	100%	94	+ 30
May	127	123	98%	100%	98	+ 29
June	110	106	97%	100%	108	+ 2
July	118	112	97%	100%	109	+9
August	123	113	96%	100%	120	+ 3
September	115	107	98%	100%	100	+15
October	129	111	100%	88%	123	+6
Total	1,260	1187	97%	98%	1,115	+ 145

Note: Requests received for environmental information (air, land, water, waste, recycling, highways, streets/roads etc) are assessed under the Environmental Information Regulations 2004 – EIRs.

- 4.3 The target is to process all FOI requests within 20 working days. However we do experience instances where the department holding the information cannot supply it in sufficient time to enable the FOI team to meet the deadline. In the majority of cases where we have exceeded the time limit, it has been under the provision for an authority to claim a reasonable extension to this limit, up to an additional 20 working days, where it needs more time to consider the public interest test.

FOI/EIR Appeals:

- 4.4 At the September meeting it was reported that there had been 5 complaints notified back to the Council by the Information Commissioner's Office (ICO). The report noted that in 2 of the cases, the ICO had concluded its investigations and issued Decision notices; in both cases the ICO found in the favour of both complainants and instructed the Council to now disclose the information.
- 4.5 Since the last meeting, the ICO has finalised its investigation into 2 more of the complaints. It found in favour of the complainant in one case and in favour of the Council in the other. With respect to the 5th complaint, the ICO is currently assessing the information supplied by the Council.
- 4.6 In the update to the September meeting it was reported that the Council had appealed the ICO Decision that the Council had to disclose information relating to the waste management contract. This had been referred to the First Tier tribunal. The ICO has since contacted the tribunal to request that our appeal be stayed and held suspended pending the outcome of two similar contract up-coming cases in order to see what decision the tribunal reaches in them.

Data Protection Act:

- 4.7 As previously reported to Committee, the Council has seen a substantial increase in the number of Subject Access Requests (SARs) it receives year on year. In the calendar year to 31 October 2016, the Council has received 71 SARs. This is a 36.5% increase on the number of SARs received for the first 10 months of 2015. Table 2 below provides the number of SARs received by month. It also provides a comparison with the number of requests received for the same period in 2015.

Table 2: SARs Received in 2016:

2016 Month	Received	On Hold	Met within Calendar 40 days	Received 2015	Change
January	7	2	2	6	+1
February	8	3	1	6	+2
March	5	0	1	5	0
April	10	0	2	6	+4
May	5	1	2	1	+4
June	2	0	0	7	-5
July	11	3	1	4	+7
August	9	3	0	4	+5
September	8	1	2	8	0
October	6	2	1	5	+1
Total	71	15	12	52	+19

- 4.8 The increase in SARs together with the size and complexity of the files that need to be reviewed and redacted has resulted in the Council not meeting the 40 calendar day time limit on a high proportion of SARs and this has led to a backlog. A number of actions have been introduced to reduce the backlog. This includes regular reviews of the outstanding SARs to assess progress and to prioritise the more urgent cases. Resources have also been switched from other areas of the Information Governance team to help address the issue.
- 4.9 The ICO has received 2 complaints in the period in respect of how the Council handles personal data. One case has been investigated by the ICO and based on the information supplied by the Council and the complainant, it was found that no breach of the Data Protection Act 1998 had occurred. The second complaint is still being investigated.

Insurance – Half Year Statistics

- 4.10 A successful claim against the Council could be described as a risk that has manifested itself. It could also be thought of as mistake by the Council. By reviewing historical insurance data, we can identify issues and then put in place the necessary actions to minimize the risks and mistakes from re-occurring. The analysis of insurance data can also highlight issues where inadequate departmental responses within the claims process have resulted in increased delays and costs.
- 4.11 Members are provided with details of claim statistics on a half yearly basis. A detailed breakdown by individual category of insurance cover is provided in Appendix 2. The appendix also contains a breakdown of causal types for each category.

Anti-Fraud Work

National Fraud Initiative (NFI)

- 4.12 The Council has submitted all the required datasets for the 2016/17 National Fraud Initiative. The data matches will be available to the Council from Thursday 26 January 2017.

Anti-Money Laundering

- 4.13 There have been no instances reported to the Anti-Money Laundering Reporting Officer in the period 1 Sept 2016 to 31 Oct 2016.

Bribery Act 2010

- 4.14 There have been no reports of suspicions of bribery made under the Anti-Bribery Policy in the period 1 Sept 2016 to 31 Oct 2016.

Whistleblowing

- 4.15 There has been 1 disclosure made under the Council's Whistleblowing policy in the period 1 Sept 2016 to 31 Oct 2016.

Regulation of Investigatory Powers Act 2000

- 4.16 The Council has a statutory obligation to provide a quarterly update to Elected Members in respect of its use of covert surveillance. There have not been any authorisations for the use of covert surveillance made under RIPA in the period 1 Sept 2016 to 31 Oct 2016.

OTHER OPTIONS CONSIDERED

5.1 N/A

This report has been approved by the following officers:

Legal officer	N/A
Financial officer	N/A
Human Resources officer	N/A
Estates/Property officer	N/A
Service Director(s)	N/A

Other(s)	N/A
For more information contact: Background papers: List of appendices:	Richard Boneham, Head of Governance and Assurance, 01332 643280richard.boneham@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Insurance stats 2016/17 - 1 st Half year

IMPLICATIONS

Financial and Value for Money

- 1.1 None directly arising.

Legal

- 2.1 None directly arising

Personnel

- 3.1 None directly arising

IT

- 4.1 None directly arising

Equalities Impact

- 5.1 None directly arising

Health and Safety

- 6.1 None directly arising

Environmental Sustainability

- 7.1 None directly arising

Property and Asset Management

- 8.1 None directly arising

Risk Management

- 9.1 Non-compliance with FOI and Data Protection legislation opens up the risk that the Council attracts a monetary penalty or other sanctions from the ICO. Information risks are monitored on a regular basis by the Head of Governance and Assurance.

Corporate objectives and priorities for change

- 10.1 The functions of the Committee have been established to support delivery of corporate objectives by enhancing scrutiny of various aspects of the Council's controls and governance arrangements.

Appendix 2

Insurance Statistics 2016/17 – 1st April to 30 September 2016

Public Liability

Public Liability relate to claims where people are alleging injury, loss or damage as a result of alleged council negligence.

The estimated claims cost is an approximation of the amount of money required to compensate for their loss. So it will include invoices / estimates of property damage, legal fees etc. Injury costs are calculated by referencing the JC guidelines for the assessment of damages.

Claims Created:

	Number of Claims	Outstanding Estimated Claim Costs
Apr-16	6	£7,079
May-16	8	£156,719
Jun-16	13	£40,957
Jul-16	15	£56,746
Aug-16	11	£25,974
Sep-16	11	£80,267

Cause Types:

C/way Pothole	9
C/way Iron Work	6
F/way Slabs/ Paving	6
Mowing	4
Damage By Employee	3
F/way Pothole	3
Tree Roots	3
Other	22

The below shows the claims closed in the 15/16 year. In simplest terms those repudiated were claims where managed to successfully argue our position; settled shows claims where we could not. Although the below will refer to different claims than those in the open table it does show the difference between money claimed and money settled and highlight the value of a robust claims handling process.

Closed Claims:

	Number of Claims	Payments made
Apr-16	1	£512
May-16	2	£352
Jun-16	2	£154

Jul-16	0	£0
Aug-16	0	£0
Sep-16	0	£0

Employers Liability

Employers liability relates to claims where employees are alleging injury, as a result of alleged council negligence whilst in the course of their duties.

The estimated claims cost is an approximation of the amount of money required to compensate for their loss. So it will include medical fees, legal fees etc. Injury costs are calculated by referencing the JC guidelines for the assessment of damages.

Claims Created:

	Number of Claims	Outstanding Estimated Claim Costs
Apr-16	2	£25,246
May-16	2	£45,288
Jun-16	1	£8,431
Jul-16	1	£16,982
Aug-16	2	£17,174
Sep-16	2	£23,615

Cause Types:

Assault	3
Fall	2
Inadequate Training	2
Defective Tools/Equipment	1
Lifting	1
Noise	1

There have been no claims closed in the period.

Motor:

Claims created:

	Number of Claims	Estimated Claim Costs
Apr-16	1	£0
May-16	2	£1,234
Jun-16	6	£2,735
Jul-16	5	£2,894
Aug-16	5	£5,195
Sep-16	8	£4,919

Cause Types

Hit Parked Vehicle	10
Hit Vehicle In Front	6
Changing Lane	2
Hit From Behind	2
Hit Whilst Parked	2
Mowing	2
Reversing - Own Vehicle	2
Other	6

Closed Claims

	Number of Claims	Payments made
Apr-16	1	£960
May-16	0	£0
Jun-16	3	£1,294
Jul-16	0	£0
Aug-16	1	£0
Sep-16	0	£0

Property:

This differs from the above classes of insurance as the estimated cost relates to recovering money rather than paying it out.

Claims created:

	Number of Claims	Outstanding Estimated Claim Costs
Apr-16	0	£0
May-16	0	£0
Jun-16	1	£799
Jul-16	3	£8,743
Aug-16	1	£5,000
Sep-16	1	£335

Cause Types:

Vandalism	3
Accidental Damage	2
Theft	2
Flood	1
Water - Burst Pipes/Tanks	1

Closed claims:

	Number of Claims	Payments made
Apr-16	0	£0
May-16	1	£831
Jun-16	0	£0
Jul-16	1	£1,368
Aug-16	1	£0
Sep-16	0	£0

Note: Aug 16 claim -Not pursued as the school didn't have necessary cover.