



Information Assurance Update

SUMMARY

- 1.1 This report provides Members of the Committee with an update on information management arrangements across the Council.
- 1.2 The report includes performance reporting for the six months April – September 2017.

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.
- 3.2 The Council holds a considerable amount of confidential and sensitive information. It is essential that this information is managed properly.

SUPPORTING INFORMATION

- 4.1 This update reports covers the following areas:

- Freedom of Information Act 2000 / Environmental Information Regulations 2004
- Data Protection Act 1998
- Information Security
- Preparation for GDPR
- Strengthening the Council's IG team

Freedom of Information (Fol) /Environmental Information Regulations (EIR) Requests current performance.

- 4.2 During the period 1st April 2017 – 30th September 2017, the Council received 510 FOI and EIR requests. Compared to the same period in 2016 there has been a 25% decrease in FOI requests and a 246% increase in EIR requests.

The table below shows the number of requests received and the number closed within the statutory time frame allowed. It also shows a direct comparison in terms of the number of requests received between this period and the equivalent period in 2016.

Table 1 : FoI and EIR Requests Received in 2017 up to the end of September:

2017 Month	Total Fols Received 2017	Total EIRs Received 2017	Closed Fols met within statutory timescale	Closed EIRs met within statutory timescale	Total Fols Received 2016	Total EIRs Received 2016	Change (Fol)	Change (EIR)
Apr	83	23	87%	65%	121	3	- 38	+ 20
May	82	23	85%	70%	124	4	- 41	+ 19
Jun	75	22	72%	64%	106	4	- 31	+ 18
Jul	95	17	69%	65%	112	6	- 17	+ 11
Aug	91	26	71%	81%	113	10	- 22	+ 16
Sep	84	10	N/A	N/A	107	8	- 23	+ 2
Total	510 (426)	121 (111)	77%*	69%*	683	35	- 173	+ 86

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

**The performance overall relates to April 2017 – August 2017 only.*

***These totals are for requests received from April 2017 to August 2017 only*

- 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.

The compliance target for this financial year is an ambitious 94% and as shown above we are currently significantly falling behind this target. The reason for this is two-fold, firstly compared to the same period last year there has been a 246% increase in the number of requests made under the Environmental Information Regulations (EIR's) 2004. All EIR requests must be responded to within 20 working days and there is no option to extend this further, even if a public interest test is required, unlike with FOI requests.

The second factor is the introduction of a 'sign off' process: all FOI/EIR requests must now be signed off by a head of service, director or strategic director depending on how high risk the request is rated. This has had a significant impact on compliance and 74% of late requests April – August are down to late sign off or late department response.

The team is taking action to improve compliance. A report, with recommendations, prepared by the team manager and Principal Information Governance Officer for FOI, detailing all the late responses, is with departmental management teams for discussion.

4.4 Breakdown of requests by department

Tables 2 and 3 below show a breakdown of all requests for this financial year by Directorate and by category of request respectively:

Table 2: Breakdown of requests by Directorate:

Directorate	Requests received April-September 2017	Requests received April-September 2016
Council-wide	38	34
Communities and Place	235	250
Organisation & Governance	188	246
People Services	170	188
TOTAL	631	718

Table 3: Breakdown of requests by category:

Category	Requests received April-September 2017	Requests received April-September 2016
Commercial	140	179
Local media	18	N/A
Media	63	205
National media	87	N/A
Other Authority	10	11
Personal	179	276
Political	25	22
Research	31	1
Third Sector/Voluntary	31	24
Whatdotheyknow.com	47	N/A
TOTAL	631	718

4.5 FOI/EIR Appeals:

Since the 1st April 2017 we have had two complaints to the ICO; one was received in April and one in July. The one in from April is now closed and the ICO found in our favour, the complaint from June is open and pending information from an ICO case worker. The table below provides further detail:

Table 4: ICO complaints received in the period:

Date of decision notice	Description	Lead dept.	Status	Lessons learned
Pending	20/6/17 – FOI 9688 ICO confirmation of complaint received – Ref FS50682311 about our decision not to disclose area rented/rent paid by Arriva/Trent Barton at the Bus Station by virtue of Section 43(2) commercial data exemption.	Com & Place	Open – awaiting a response from the ICO	TBC when ICO decision notice received.
16/5/17	18/4/17 – complaint received – FOI 8911 – about our decision to not disclose 'labour party agent movements – Section 40(2) Personal data third party exemption.	Org & Gov	Closed	Exemption Section 40(2) Personal data third party correctly applied. ICO decision is that the information requested should be withheld.

4.6 Data Protection Act 1998

For the period 1st April 2017 – 30th September 2017, the Council has verified 49 Subject Access Requests. Table 5 below provides the number of SARs verified by month.

Table 5: SARs Received in 2017 up to the end of September 2017:

Month	Number of requests verified	Number of open requests	Number of open and overdue	Number Closed	Number closed within 40 days	Number of overdue requests (both open and closed)	Performance
April	10	2	2	8	4	6	40%
May	13	0	0	13	13	0	100%
June	8	0	0	8	8	0	100%
July	11	0	0	11	10	1	91%
August	2	0	0	2	2	0	100%
September	5	4	0	1	1	0	N/A
TOTAL	49	6	2	43	38	7	88%*

- 4.7 At the end of the last financial year the Council were not meeting the 40 calendar day time limit on a high proportion of SARs and compliance rate was less than 40%, this has led to a significant backlog of overdue requests. A number of actions have been introduced to reduce this backlog and work is on-going. Actions include: a new team structure; temporary additional resources; regular progress updates. Since the changes in structure and process we have not only significantly reduced the backlog but also increased our compliance rate for new SAR's received since April to 88% as shown above. The target for this financial year is 80% compliance so this target is currently being exceeded by the team.
- 4.8 We are not aware of any current complaints with the ICO in relation to any individual Subject Access Requests we have dealt with.

INFORMATION SECURITY

- 4.9 A major priority for the team over this last period has been a focus on the Council's data breach management arrangements. The reporting process has been refreshed and includes a much greater focus on analysing cause and making improvements to avoid the breach being repeated.

GDPR PREPARATIONS

- 5.0 The new General Data Protection Regulations (GDPR) come in to effect on 25th May 2018. GDPR replaces the existing Data Protection Act 1998 and is intended to improve the rights of individuals in relation to the data we hold about them.
- 5.1 Key changes are:
- Requirement for explicit consent.
 - The right to be forgotten.
 - The right to data portability.

- Mandated privacy impact assessments.
- Data breaches reported within 72 hours.
- Higher penalties for data breaches – up to 4% of turnover or 20 million Euros.

5.2 The practical implications include:

- A fundamental review of relevant policies and procedures.
- An organisation wide programme of data auditing and cleansing.
- A review of all contracts and relationships with 3rd parties.

5.3 A GDPR task and finish group has been set up and is working well. The group reports to the corporate Information Governance Board chaired by the Interim Director IT (and SIRO). Two staff in the Council's IG team have attended GDPR accreditation training and will sit their exams during December.

STRENGTHENING THE COUNCIL'S IG TEAM

- 5.4 Until June this year, the Council's IG team reported to the post of Head of Governance and Assurance. A management decision was made to move the IG team and associated responsibilities to the Director of IT pending a more formal review. This arrangement, which allowed the former manager to focus on Audit duties, was agreed by all affected parties.
- 5.5 The team was finding difficult to deliver against its challenging agenda and performance targets were not being met. Preparations for GDPR had not started.
- 5.6 Following an organisational review new arrangements were agreed (Appendix 2) which include a Head of Information and an Information Security Officer – interviews for these two new posts are scheduled for week commencing 20th November. As well as these new posts the new arrangements:
- Clarify roles, responsibilities and accountabilities by creating some clear structure within the team.
 - Increase the resource available for administer subject access requests.
 - Create a specific Data Protection Officer as required by GDPR.
 - Create a senior officer (the Head of Information) tasked with ensuring the Council not just meets its legal obligations, but that supports the Council to actively manage and exploit its information assets.

Pending recruitment to the new Head of Service post, the following interim arrangements are in place:

Subject Access Requests and FOI/EIR:

Lead – Thomas Mullen, Legal Officer

Direct reports – Elphia Miller, Principal Information Governance Officer (FOI)
 Angela Harding, Principal Information Governance Officer (FOI)
 Bob Airey, Principal Information Governance Officer (DP and FOI)
 Janet Nyangoma, Information Governance Support Officer (DP)
 Jenny Anderson, Information Governance Officer (FOI)

Rachael Collier, Information Governance Officer (DP)
Ben Gorse, Business Administration Apprentice

GDPR and Data Breaches:

Lead – Sinead Booth, Legal Officer

Direct Reports – Angela Gregson, Principal Information Governance Officer (Policy)
Chloe Wright, Information Governance Officer

5.1 N/A

This report has been approved by the following officers:

Legal officer	Olu Idowu
Financial officer	N/A
Human Resources officer	N/A
Estates/Property officer	Jayne Sowerby-Warrington
Service Director(s)	Jill Craig
Other(s)	Ann Webster, Richard Boneham

For more information contact:	Tom Mullen, 01332 643617 thomas.mullen@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – Proposed team structure

IMPLICATIONS

Financial and Value for Money

- 1.1 None directly arising.

Legal

- 2.1 None directly arising from the report.

Personnel

- 3.1 None directly arising.

IT

- 4.1 None directly arising

Equalities Impact

- 5.1 Data Protection also includes sensitive equality information and so it is essential that we are able to do all we can do to prevent any breaches.

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. This is particularly important going forward as from the 25th May 2018 when the General Data Protection Regulations (GDPR) come into force the penalties for non-compliance can be up to 4% of worldwide turnover or 20 million Euros, whichever is higher. Information risks are monitored on a regular basis by the Interim Director, Jill Craig.

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.

FINAL STRUCTURE

