

Governance Update

SUMMARY

- 1.1 This report provides an update on the developments being made within the Council's governance framework.

RECOMMENDATION

- 2.1 To note the actions and the progress being made to enhance the governance framework.

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

Information Governance – Freedom of Information

- 4.1 This update on information governance covers the period 1 January 2015 to 28 February 2015.
- 4.2 The number of Freedom of Information (FOI) and Environmental Information Regulations (EIR) requests the Council has received over the last 9 years has increased each year. Table 1 below shows the number of FOI/EIR requests received each year since FOI came into being, and the number of requests received in 2015, as at 31 May. The number of requests received in 2015 as at 31 May is 555. This is an average of 111 requests per month. This compares to an average of 113 per month in 2014.

Table 1: Number of FOI/EIR Requests Received by Calendar Year

Year	Number of FOI Requests Received
Jan - Dec 05	183
Jan - Dec 06	239
Jan - Dec 07	250
Jan - Dec 08	358
Jan - Dec 09	581
Jan - Dec 10	685
Jan – Dec 11	913
Jan – Dec 12	923
Jan – Dec 13	1,209
Jan – Dec 14	1,360
Jan – May 15	555

- 4.3 A total of 321 FOI/EIR requests have been received in the period 1 March 2015 to 31 May 2015 (350 for this period in 2014). In the same period, 339 FOI/EIR requests were completed (368 for this period in 2014). The total recorded officer time taken to complete these requests was approximately 609 hours 30 mins. Based on the level of charges determined by regulation 4 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, the calculated charge for staff costs is £15,237.50

Note: The regulation specifies that the standard hourly rate that all authorities must use to calculate the staff costs of answering requests is £25.

The average response time per request in the period was 8.7 days. This compares to an average of 9 days for 2014.

4.4 Source of FOI/EIR Requests

The Council does not just receive FOI/EIR requests from members of the public. A large proportion comes from commercial organisations, local and national media and political pressure groups. An analysis of requests for information sorted by category of requester for the period from 1 March 2015 to 31 May 2015 is shown in Table 2. Table 3 breaks these same figures down by the Council Directorate responsible for supplying the information.

Table 2: Number of FOI/EIR Requests by category of requester

FOI Request from	March 2015	April 2015	May 2015
Commercial	28	28	35
Media	26	15	19
Personal	71	51	44
Other Local Authority	2	0	0
Political	2	0	0
Total	129	94	98

Table 3: Number of FOI/EIR Requests by Lead Directorate

Directorate	March 2015	April 2015	May 2015
Adults, Health & Housing	16	15	13
Chief Executive's Office	0	0	3
Children & Young People	25	11	12
Neighbourhoods	44	30	34
Resources	40	33	35
Public Health	3	2	1
Council Wide	1	3	0
Total	129	94	98

4.5 FOI/EIR Appeals

There has been 1 appeal completed in the period. The appeal was in connection with a request that was a part-refusal. The appeal outcome was that the Council would approach the third parties involved and request their approval for release of the information requested.

Information Governance – Information Commissioner’s Office

- 4.6 It was reported to the March 2015 Committee meeting that the Council had received notification from the ICO that it wanted to ensure that the Council has adequate procedures in place for dealing with Fol requests. The ICO had produced an action plan which identified their concerns and set out a range of steps for the council to take. The purpose is not punitive but provides for the ICO to work with the council to make sure that future Fol requests are handled properly.
- 4.7 To date the council has made 2 returns to the ICO. In both months (requests received in March 2015 and April 2015 that have been completed) the statutory timeframe had not been exceeded.

Information Governance – Data Protection

- 4.8 The Information Governance Team has received 24 Subject Access Requests in the first 5 months of 2015. This figure does not reflect any requests where the team has determined that the Council does not hold the personal records i.e. where the request refers to records that relate to Derbyshire County Council. It also does not include requests from employees for access to their personal records. Ten requests have been completed, although 1 request was not completed in the statutory timeframe of 40 days. With regard to the other 14 SARs, 12 are on hold (awaiting proof of identity) and 2 are still in progress.
- 4.9 The Head of Governance and Assurance continues to assist the Information Commissioner’s Office (ICO) in relation to the 2 disclosures of personal data which happened in October 2013 and June 2014.

Staff resources – Governance & Assurance Division

- 4.10 Members will recall that at the meeting on 9 July 2014, the Chair set out a number of key areas he wanted to address in 2014/15. In particular he was concerned with
- the Council's ability to meet its statutory responsibilities in respect of information governance, with particular reference to data protection and FOI; and
 - the level of staff resource within the insurance and risk management function.

Committee members shared the chair's concerns in both these matters and asked to be kept updated on any developments.

- 4.11 There has been a re-structure of the staffing establishment for both the Information Governance section and the Insurance and Risk Section to address these concerns.

Information Governance:

The aim of the re-structure is to focus resources to the key areas of information management so that the Council can demonstrate proper governance of its information assets. The establishment now has 4 Principal Information Governance Officers whose duties will be to lead on specific areas of information governance:

- Freedom of Information, publication scheme and Open Data
- Data protection advice, data protection disclosures, subject access requests, information sharing agreements
- Compliance with the NHS IG Toolkit, Information Governance policies, support to the Council's Caldicott Guardian, liaising with Information Asset owners
- Records management, security classification, document retention, information security (Remedy, Egress etc) and Schools IG Sold service (incl newsletters)

Insurance & Risk Management:

The re-structure has increased the establishment of the Insurance and Risk team with the addition of 2 Insurance and Risk Officer posts and an Insurance and Risk Assistant. One of the Insurance & Risk Officers will focus on insurance policies including renewals, while the other Insurance & Risk Officer will focus on insurance claims. This will enable the Principal Insurance and Risk Officer to concentrate on corporate risk management issues.

Compliance with the NHS Information Governance Toolkit

- 4.12 Committee has been made aware of the issues around compliance with the toolkit at previous meetings. The issue was also reported in the 2013/14 Annual Governance Statement. The Council commissioned an external assessment of the shortfall in its evidence requirements to meet a minimum of level 2 of the toolkit. A small group of officers from the Information Governance Group then used this assessment to produce an improvement plan. The achievement of the actions was, however, dependent on additional resources being available to co-ordinate the Council's activity.

- 4.13 The Council was required to complete the online submission by 31 March 2015. The Council achieved a score of 39%, which is graded as “not satisfactory”. The council needs to be achieving level 2 in each of the 28 requirements of the toolkit. The assessment summary is shown in table 4 below:

Table 4 : IG Toolkit Assessment Summary Report

Assessment Area	Levels				Total req'ts	Overall Score	Self-assessed Grade
	0	1	2	3			
Information Governance management	1	2	0	2	5	53%	Not Satisfactory
Confidentiality & Data Protection Assurance	2	3	1	0	6	27%	Not Satisfactory
Information Security Assurance	3	1	9	0	13	48%	Not Satisfactory
Care Records Assurance	3	1	0	0	4	8%	Not Satisfactory
Overall	9	7	10	2	28	39%	Not Satisfactory

- 4.14 One of the new posts in the Information Governance team has responsibility for co-ordinating moving the improvement plan forward.

Insurance & Risk Management

- 4.15 The Risk Management Annual Report is a separate agenda item.

Whistleblowing

- 4.16 There has been 1 disclosure made under the Council’s Whistleblowing policy in the last period.

Anti-Money Laundering

- 4.17 There have been no instances reported to the Anti-Money Laundering Reporting Officer in the last period.

Bribery Act 2010

- 4.18 There have been no reports of suspicions of bribery made under the Anti-Bribery Policy in the last period.

Regulation of Investigatory Powers Act

- 4.19 The Council has a statutory obligation to provide a quarterly update to Elected Members in respect of its use of covert surveillance. The Annual Report on covert surveillance is a separate agenda item.

National Fraud Initiative (NFI)

- 4.20 Work is continuing on clearing the matches released in January 2015. The tables below shows the number of matches reported, and the percentages cleared. The NFI team do not expect 100% clearance of all matches.

Table 5: NFI Matches

Service	Total number of matches	“Mandatory” matches
Housing benefit	2344	796
Payroll	180	1
Derby Homes	55	18
Blue badges	1025	980
Residential care homes	96	49
Creditors	4826	440
Residents parking	3	3
Concessionary travel	733	731
Mixed data source reports	174	70
Markets	6	0
Personal budgets	29	4
TOTAL	9471	3092

- 4.21 As at 29 June 2015, the number of cases cleared were:

Table 6: Cleared cases

Service	Number of matches cleared	Number of “mandatory” responses cleared	Percentage cleared	
			total	mandatory
Housing benefit	17	15	0.7%	1.9%
Payroll	151	1	84%	100%
Derby Homes	3	1	5%	6%
Blue badges	130	130	12.7%	13.3%
Residential care homes	49	49	51%	100%
Creditors	35	17	0.7%	4%
Residents parking	3	3	100%	100%
Concessionary travel	8	8	1%	1%
Mixed data source reports	174	70	100%	100%
Markets	0	0	0%	0%
Personal budgets	8	4	27.6%	100%
TOTAL	578	298		

- 4.22 As has been the case in previous NFI exercises, there are a high number of creditors' matches. This is due to many suppliers being listed twice, as they are suppliers to both the Council and schools, and many matches appear on several reports. As a result, the matches checked are done on a "sample" basis as they have proved unproductive in the past.
- 4.23 The benefit matches usually produce the majority of the recovered sums, but take the longest to investigate.
- 4.24 As at 29 June 2015, a total of £2354.00 had been identified as overpaid in personal budgets. This was 1 case which had been identified as an error.
- 4.25 Matches between Council Tax and Electoral Roll records are now performed on an annual basis. As at 29 June 2015, the clearance status on these records were;

Table 7: Council Tax/Electoral Register Matches

Dataset released February 2014	Total matches	Matches Cleared
Council Tax to Electoral Roll	2020	369
Council Tax rising 18	381	235
TOTAL	2401	604
Dataset released December 2014		
Council Tax to electoral roll	2452	119
Council tax rising 18	130	0
TOTAL	2582	119

The total clawed back following these exercises is £93,629.84 and £22,019.61 respectively.

TEICAFF Annual Fraud Survey

- 4.26 As part of its counter-fraud work, the Audit Commission issued an annual survey to gather data on frauds encountered by authorities during the previous 12 months. This data was used to highlight trends and helps identify areas for concern. Following the formal closure of the Audit Commission on 31 March 2015, it was unclear whether or not this survey would continue. On 24 April 2015, all local authorities received email correspondence from TEICAFF (The European Institute for Combatting Corruption and Fraud) asking them to complete a survey on detected fraud and corruption. TEICAFF is a new organisation that brings together leading experts in fraud from across the UK, both private and public sectors, and includes the former counter fraud team of the Audit Commission. As well as the continuation of the annual fraud survey, they are promising to publish later in the year a national report generated from the findings of the fraud survey, using the familiar title “Protecting the Public Purse”. There have been some changes to the questions in the survey, as reflected in the table below.
- 4.27 Table 8 below contains the figures the Council submitted to TEICAFF, together with the figures for the previous 3 submissions to the Audit Commission.

Table 8 : Fraud Survey - submissions

Fraud Area	2011/12	2012/13	2013/14	2014/15
<i>Housing benefit</i>				
Number of frauds	222	129	134	240
<i>Value of frauds</i>	<i>£672,972</i>	<i>£513,212</i>	<i>£708,556</i>	£662,366
Number of frauds involving employees	4	3	0	1
<i>Value of employee cases</i>	<i>£6,525</i>	<i>£6,878</i>	<i>Nil</i>	£1,528
Prosecutions begun in period	55	40	39	n/a
Guilty in period	62	34	38	n/a
<i>Housing</i>				
Tenancy subletting	6	10	2	7
Housing applications / other frauds	Yes ⁴	2	1	n/a
Right To Buy	0	0	0	0
<i>Other frauds</i>				
Blue badge ⁵	5	0	Yes ⁴	46
Number involving employees	0	0	0	3
Insurance ³	0	0	0	13
<i>Value of insurance frauds</i>	<i>0</i>	<i>0</i>	<i>0</i>	£11,915
Council Tax discount	0	0	0	0
Council Tax reduction ¹	n/a	n/a	20	62
<i>Value of CT reduction frauds</i>	<i>n/a</i>	<i>n/a</i>	<i>£23,097</i>	£53,302
Non-Domestic rates	0	0	0	0
Procurement	0	0	0	0
Social care	0	0	0	0
Local Welfare assistance ²	n/a	n/a	5	1
<i>Value of LWA frauds</i>	<i>n/a</i>	<i>n/a</i>	<i>£1,093</i>	£10,967
Economic and 3 rd sector	0	0	0	0
Debtors	0	0	0	0
Investment	0	0	0	0
Payroll (including expenses)	0	0	0	1
<i>Value of payroll frauds</i>	<i>0</i>	<i>0</i>	<i>0</i>	£346
Abuse of position	0	0	0	0
Recruitment	0	0	0	0

1 Although this appears to be a new category, in previous years this had been included in with the housing benefit fraud figures prior to 2014.

2 This was a new reporting item for the annual survey last year.

3 Full details held by Zurich – the insurers

4 number of cases not recorded

5- breakdown of badge misuse (staff cases) :

Abuse of deceased person's badge – 5 cases

Abuse of a family member's badge – 36 cases (1)

Persons unknown – 2 cases

Use of expired badges – 3 cases (2)

For all 3 staff cases, a PCN was issued and meetings set up with the individual's line manager.

The family member's badge was confiscated.

Housing Benefit – fraud survey figures

- 4.28 Benefits continue to be a high profile area of fraud. Although the number of frauds found this year shows a substantial increase on the previous year, the value of the frauds has decreased disproportionately. This is because the total includes cases where investigation established inaccurate benefit award but the cases could not be said to be “fraud proven” according to the DWP subsidy requirements. The value of these unproven cases is not included in the monetary total.
- 4.29 The benefit Investigations Unit has made a conscious effort to focus on high value cases and this has included those where the evidence may be insufficient to progress it eventually as a criminal case but has satisfied the balance of probability test required to re-assess the claim. The DWP will only participate in joint working on cases where the overpayment will exceed £2000. Lower value cases are now dealt with by the compliance team.

CIPFA Fraud and Corruption Tracker (CFaCT)

- 4.30 CIPFA also produced an annual fraud survey, which sought the same detected fraud information as the TEICAFF survey, but with an additional question regarding how many cases were attributable to cyber-crime. This survey was completed using the data already compiled for the TEICAFF survey. A national report of the findings is also expected in autumn.
- 4.31 This survey was expanded with additional questions around the Council’s approach to counter-fraud work. The additional areas focused on:
- the existence of a whistleblowing policy,
 - resources available for counter-fraud and corruption activities,
 - access to Proceeds of Crime Act resources: and
 - arrangements in respect of policy review, new policies, fraud recording and reporting, counter fraud planning and activities, sanctions, training and staff qualifications.

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)	Chief Officer Group

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Background papers:
List of appendices:

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None
Appendix 1 – Implications

IMPLICATIONS

Financial and Value for Money

- 1.1 The charge for Unitary Councils participating in the National Fraud Initiative 2014/15 is £3,650. The fees are the same as for the 2012/13 NFI exercise.

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 Governance risks are monitored through the strategic risk register.

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.