

Meeting: Audit Committee
Date: 24 April 2024
Classification: Part 1
Key Decision: No
Title of Report: Update concerning FOI, SAR and Complaints performance

Executive Director: Claire Shuter, Executive Director Strategy and Change
Report Author: Val Smith, Customer Support Manager, Information Governance, Complaints and Resolution
Executive Councillor: Councillor Cox, Leader of the Council

1. Executive Summary

- 1.1. Audit Committee asked for a written report concerning the progress being made in improving the timely completion of Freedom of Information (FOI) requests, Subject Access Requests (SAR) and complaints.
- 1.2. While considerable improvement has been made, further progress is needed to meet the required standards.

2. Recommendations

It is recommended that Audit Committee:

- 2.1. Note the progress made so far;
- 2.2. Note the actions continuing to be taken and the need for continued improvement.

3. Background

- 3.1. Audit committee has previously expressed concern that the service being provided with regard to FOI requests, SARs and Complaints was below the expected standard.
- 3.2. The Committee was also concerned that a Practice Recommendation had been issued by the Information Commissioner in December 2023 regarding FOI request performance, and there had been a notifiable data breach in late 2023 which was caused by information inadvertently supplied in a spreadsheet provided in response to a FOI request.

- 3.3. Performance for FOI / SAR and complaints is reported annually to the Committee. Given their concerns, the Committee required more regular updates so that they could be satisfied improvements were being made and service improving.
- 3.4. A verbal update was provided at the January Audit Committee meeting. Informal written monthly updates were provided in February and March with a formal report being required for this meeting of the Committee.
- 3.5. **Freedom of Information**
- 3.6. A Task and Finish group has been in operation since December 2023 focusing on Freedom of Information performance.
- 3.7. The number of outstanding and overdue FOI requests has improved from a worst point of 101 in July 2023 to there being no overdue cases at the time of writing.
- 3.8. The percentage of FOI requests responded to within deadline has improved from a worst point of 48.65% in September 2023 to 84.09% in March 2024. Although a considerable improvement, this is short of the 90% required by the ICO.
- 3.9. Many of the cases outside the deadline when responded to in March were only overdue by a small number of days, approximately 12 more of the cases being in time would have achieved the 90% requirement. Upcoming deadlines are now being monitored daily by the central FOI team and discussed with service areas to further boost compliance by reducing the 'near misses'.
- 3.10. Key actions taken to improve performance have included:
- Weekly monitoring of performance, weekly reporting of open cases, call in to Corporate Leadership Team to account for overdue cases.
 - A self-assessment of the Council's FOI position and identification of required actions for improvement.
 - Updated FOI policy and procedure, taking into account gaps identified in the self-assessment.
 - Recruitment to a vacancy in the FOI team.
 - On-line training procured and being included as mandatory, for completion by all staff by 30.6.24 alongside data protection and cyber security training. Compliance to be monitored.
 - Move of the central FOI support service to Legal Services to give a higher profile. A narrowed focus of the team to information governance matters only (FOI/EIR, Data Protection/SAR, Complaints).
 - Increased transparency through statistics and action plan published on the Council's website.
 - An analysis of 3699 past FOI requests between January 2021 to December 2023 to identify areas of future focus.

- A further Task and Finish group comprising web services, policy, information governance/FOI to enable the routine publication of policies and procedures and link them to the publication scheme on the Council's website. Will include and Equality Analysis to ensure those with accessibility needs are not disadvantaged.
- 3.11. The Information Commissioner has been satisfied with the approach being taken so far and the improvement to date. The Monitoring Officer is required to send a formal progress report to the Information Commissioner by 1 May 2024.
- 3.12. **Subject Access Requests**
- 3.13. The Task and Finish group has also focused on Subject Access Request performance.
- 3.14. Using additional funding provided for the purpose, specialist resource was engaged to assist with clearing urgently required requests. It was hoped this might be part of the longer term solution for SAR processing but has in practice proved more expensive than anticipated.
- 3.15. While the number of incoming cases is being exceeded by the number processed, the number of requests is rising and the backlog of requests relating to Children's social care remains static in the region of 44 cases on average.
- 3.16. The percentage of requests receiving a response in time has increased from a low point of 5% in May, to 55% in March. While this is a notable improvement, it is not an acceptable level of service and masks the backlog underlying it.
- 3.17. Now that the cost of specialist resource is known, all options will again be explored to identify the best way forward and the resourcing required to improve to the required standard within a reasonable timeframe.
- 3.18. These options will utilise part of the additional £100K which has been approved permanently as part of the 2024/25 Budget for Cyber Security, Data and SARs, £50K of which has been set aside to support responsiveness to Subject Access Requests.
- 3.19. It is most probable that given the high cost of specialist resource, funding will need to be prioritised within the Council's budget to provide additional funding will be used to provide additional staffing to work on the backlog of Children's Services requests.

3.20. Complaints

- 3.21. The new Complaint Handling Code introduced by the Local Government and Social Care Ombudsman will now become mandatory from April 2026 rather than 2024. Councils are encouraged to adopt the new Code as soon as they are able and the opportunity for the Council to do so will be explored over the coming year. The Code does not apply to statutory complaints.
- 3.22. The Task and Finish group has focused on complaint performance, both for statutory and general complaints.
- 3.23. The number of outstanding and overdue general complaints has improved from a worst point of 131 in September 2023 to there being 10 overdue cases at the time of writing.
- 3.24. The percentage of general complaints responded to within deadline has improved from a worst point of 34.92% in January 2024 to 72.73% in March 2024. Although a considerable improvement, further progress will need to be made. The reduction in overdue cases is making it easier to monitor cases which have or are becoming overdue.
- 3.25. The number of outstanding and overdue statutory complaints has improved from a worst point of 15 cases at the beginning of the Task and Finish Group to there being 1 overdue case at the time of writing.
- 3.26. There remains considerable challenge in completing statutory complaints in time, with 55.56% of Children's and 36.36% of Adult's statutory complaints being completed in time in March.

4. Reasons for Decisions

- 4.1. The Audit committee has requested evidence that appropriate action is being taken to improve performance with regard to Freedom of Information requests, Subject Access Requests and complaints. This report provides that assurance and information concerning the continuing action to provide further improvement.

5. Other Options

- 5.1. This report is for update purposes only and options are not explored within it.

6. Financial Implications

- 6.1. There is likely to be a need to prioritise Council funding to improve Subject Access Request performance, but this is not explored in detail in this update. Failing to comply with FOI/SAR and complaints can have financial consequences through financial penalties from the ICO or remedial payments required by the LGSCO.

7. Legal Implications

7.1. Failing to comply FOI and SAR legislation can have legal consequences through the ICO or through legal action taken by requesters.

8. Policy Context

8.1 FOI and SAR policies and Complaints guidance underpin this paper.

9. Carbon Impact

9.1. None

10. Equalities

10.1. None in relation to the performance aspects of FOI/SAR/complaints.

11. Consultation

11.1. None

12. Appendices

12.1. **None**

13. Report Authorisation

This report has been approved for publication by:		
	Name:	Date:
S151 Officer	Joe Chesterton	16.4.24
Monitoring Officer	Susan Zeich	16.4.24
Executive Director(s)	Claire Shuter	16.4.24
Relevant Cabinet Member(s)	Councillor Cox	16.4.24