

Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Environment

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## **Freedom of Information Compliance: Annual Report 2018**

### **Executive Summary**

This is a regular report to monitor the Council's performance in dealing with Freedom of Information (FOI) and Environmental Information Regulations (EIR) requests.

The Council's performance rate for timely delivery of FOIs during the calendar year 2018 was 93%, which compares favourably with the figure of 91.5% recorded at the end of 2017. The Council therefore exceeds both the Information Commissioner's performance indicator of 85%, and the 90% target agreed by Corporate Management Team.

### **Recommendation to Committee**

That Corporate Governance and Standards Committee notes the officer actions and continues to receive six monthly updates.

### **Reasons for Recommendation:**

- To ensure that the Committee is kept up to date with developments in the FOI/EIR framework
- To ensure that the Committee has the necessary information to enable requests for information to be made easily to the Council and properly responded to
- To assist with learning lessons and improving performance following requests for information made to the Council

## **1. Purpose of Report**

- 1.1 The Corporate Governance and Standards Committee has requested this report to ensure the Council improves its response timescales for FOI and EIR requests.
- 1.2 Promoting openness and transparency in Council policy and decision-making is essential to promote public confidence within the Borough in order to improve prosperity and well-being as outlined in the Strategic Framework – i.e. the Council “will be open and accountable”.
- 1.3 Effective compliance with information governance, including the management of the Council’s FOI/EIR regime plays a key part in achieving these objectives.

## **2. Background**

- 2.1 The Council is required to respond to FOI and EIR requests within 20 working days – subject to certain exceptions as long as the requester is kept informed – for example extra time can be taken to consider the Public Interest Test.

## **3. Update on progress in 2018**

- 3.1 As at 7 December 2018, the Council had received 750 FOI/EIR requests during the current calendar year. A total of 694 had been received at this stage last year, so there has been an 8% increase in requests over the last 12 months.
- 3.2 The Council’s performance time currently stands at 93% of requests being closed within the statutory period (20 working days), compared with a figure of 91.5% in 2017 – a small, but welcome increase of 1.5%.

## **4. Requests received by Directorate, January – December 2018 (up to 7 December 2018)**

- 4.1 The Community directorate received the most requests with 251 (33% of the total requests received). Of these requests, 91% were answered within the 20 working day time-scale.
- 4.2 The best performing directorate was Planning and Regeneration with an impressive 100% compliance rate.
- 4.3 All directorates are currently performing above the ICO’s performance target of 85%. At this time last year, all directorates were similarly performing above this target figure. However, the organisational restructure at the end of the 2017-18 must be taken into account, as various service areas were moved into different directorates following the dissolution of Resources and the creation of the new Finance directorate.

**Fig 1 – Table of Requests by directorate and percentage answered in time**

<b>Directorate</b>	<b>Requests received</b>	<b>Requests answered in time (within 20 working days)</b>	<b>Percentage answered in time</b>
Community	251	229	91%
Environment	162	147	91%
Finance	206	198	96%
Management Team	53	48	90%
Planning & Regeneration	78	78	100%
<b>TOTAL/AVERAGE</b>	<b>750</b>	<b>700</b>	<b>93%</b>

4.4 Fifteen service areas scored a highly commendable 100% performance rate - see table in Appendix 1 for full details.

## **5. Exemptions**

5.1 The most frequently used exemption under the Freedom of Information Act used for withholding requested information (either partially or completely) was section 21 (information available by other means), which was used on 71 occasions to date this calendar year – compared to 39 occasions at this time last year.

5.2 The majority of these requests (40 in total) related to business rates.

5.3 This is largely due to the information being readily available on the Council’s website. The greater the amount of pro-actively published online information, the less time and effort will be required in dealing with FOI requests. A project to set up a disclosure log of FOI/EIR responses for publication on the Council’s website is currently in progress and is being managed in liaison with Fivium, the company which provides the eCase system.

5.4 The next most commonly applied exemptions were section 40 (where third party personal data is involved) and section 31 relating to law enforcement.

## **6. Categories of Requester**

6.1 The largest category of requester during 2018 was the correspondent group “Other” (a miscellaneous category consisting largely of private companies, professional bodies and other councils), accounting for 37% of all FOI/EIR requests, and thus reflecting a similar trend to 2017 when the figure was 40%.

**Fig 2 – Categories of Requester**

<b>Correspondent Group</b>	<b>No. of requests</b>	<b>%</b>
Other	277	37%
Charity	20	3%
Campaign Group	16	2%
Media	106	14%
Political	6	1%
“WhatDoTheyKnow”	39	5%
Trade Union	3	0.5%
Academic	5	0.5%
Member of the Public	274	36.5%
Legal	4	0.5%

6.2 The overall figures reflect a very similar pattern to 2017. See Appendix 2 for bar chart.

## **7. Internal Reviews**

7.1 Eight FOI/EIR requests so far this year have gone to internal review stage – the same number for this time last year. Five review cases are currently open. Of the closed cases, two of the appeals were dismissed and one was partially allowed.

## **8. Subject Access Requests**

8.1 Following the coming into force of the General Data Protection Regulation (GDPR) in May 2018, the Council experienced a spike in the number of Subject Access Requests (SARs) received. A total of 17 new requests were received since 25 May. The Council therefore received more than twice as many SARs in the space of six months than during the whole of 2017, when a mere 7 were received. This was not completely unexpected given that under the GDPR, organisations can no longer charge the standard £10 fee and the substantial volume of publicity and media coverage enjoyed by the GDPR in the run-up to its implementation.

8.2 However, in recent months the trend has flattened out to a more normal pattern.

## **9. Equality and Diversity Implications**

9.1 No Equality and Diversity Implications apply to this report.

## **10. Financial Implications**

10.1 There are no financial implications to this report.

## **11. Legal Implications**

- 11.1 Failure to respond to FOI/EIR requests within 20 working days is a breach of the respective legislation. Requesters whose FOIs/EIRs have not been answered within the statutory time limit have the right to request an internal review and/or to make a formal complaint to the Information Commissioner's Office (ICO). There are therefore direct legal implications associated with the risk of reputational damage to the Council, adverse publicity and active monitoring by the ICO.

## **12. Human Resource Implications**

- 12.1 There are no proposals in this report with any direct HR implications.

## **13. Conclusion**

- 13.1 The Council's overall performance on the timely delivery of information requests has exceeded Corporate Management Team's set target of 90% for the second year running. Notably, 15 service areas deserve special commendation for achieving a 100% compliance rate. The Planning and Regeneration Services directorate in particular stands out as all four of its internal service areas scored an impressive 100%.
- 13.2 However, there is still room for improvement across the board. The Council will continue to strive to achieve as close to 100% compliance as possible.
- 13.3 Directors will ensure requests in their service areas remaining overdue or approaching their deadline date are resolved as soon as possible so that current standards can be kept up and if possible exceeded

## **14. Background Papers**

None

## **15. Appendices**

Appendix 1: FOI/EIR Requests received by service area, 01/01/18 – 07/12/18  
Appendix 2: Categories of FOI Requester 2018

**Appendix 1 – FOI/EIR Requests received by service area, 01/01/18 – 07/12/18**

<b>Service Area</b>	<b>Total requests</b>	<b>Total answered in time</b>	<b>Percentage</b>
<b>COMMUNITY</b>			
Community Services	3	3	100%
Corporate Property	20	19	95%
Environmental Health	40	37	92.5%
Facilities Management	4	0	0%
Housing Advice	57	54	95%
Licensing	30	30	100%
N & H Management	33	27	82%
Private Sector Housing	44	40	91%
Property Services	3	2	66%
Public Health	17	17	100%
<b>SUB-TOTAL</b>	<b>251</b>	<b>229</b>	<b>91%</b>
<b>ENVIRONMENT</b>			
Bereavement	6	5	83%
Cleansing/Recycling	38	32	84%
Customer Services	9	8	89%
Engineering	6	6	100%
Fleet & Waste	15	13	86%
Heritage & Culture	5	5	100%
Legal	27	26	96%
Leisure Services	2	2	100%
Parking	21	18	86%
Parks & Countryside	33	32	97%
<b>SUB-TOTAL</b>	<b>162</b>	<b>147</b>	<b>91%</b>
<b>FINANCE</b>			
Benefits	11	11	100%
Business Rates & Systems	83	83	100%
Council Tax	23	22	96%
Democratic Services	27	27	100%
ePayments	4	4	100%
Financial	27	21	78%
ICT	31	30	97%
<b>SUB-TOTAL</b>	<b>206</b>	<b>198</b>	<b>96%</b>

<b>Service Area</b>	<b>Total requests</b>	<b>Total answered in time</b>	<b>Percentage</b>
<b>MANAGEMENT TEAM</b>			
HR	26	26	100%
Corporate Management Team	2	2	100%
Payroll & Insurance	5	4	80%
Policy & Partnership	16	15	94%
PR & Marketing	4	1	25%
<b>SUB-TOTAL</b>	<b>53</b>	<b>48</b>	<b>90%</b>
<b>PLANNING &amp; REGENERATION</b>			
Planning	67	67	100%
Building Control	1	1	100%
Local Economy	9	9	100%
Major Projects	1	1	100%
<b>SUB-TOTAL</b>	<b>78</b>	<b>78</b>	<b>100%</b>
<b>TOTAL</b>	<b>750</b>	<b>700</b>	<b>93%</b>

**Appendix 2 – Categories of FOI Requester 2018**

