

Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Strategic Services

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Freedom of Information Compliance: Annual Report 2020

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.

Due to unprecedented circumstances related to the Covid-19 pandemic lockdown and recent corporate restructures, performance rates for timely delivery of FOI/EIR requests dropped during 2020 to 80%, compared with 94% in 2019.

Circumstances permitting, the aim for 2021-22 will be to return performance rates to previous levels.

Recommendation to Committee

That the Committee notes the report, 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 2019

- 3.1 The Council received 643 FOI/EIR requests during the calendar year 2020. This marks a 12% decrease in volume from 2019 when 732 requests were received. This may be due in part to the Council’s [online Disclosure Log](#), which has been live for almost two years now and has details of 400 responses — as well as recent improvements made to the [Transparency pages](#) on the Council’s website.
- 3.2 The Council’s performance rate for 2020 is 80% of requests being closed within the statutory period (20 working days), compared with a figure of 94% for 2019. This drop was largely due to unforeseen and unprecedented circumstances connected with the Covid pandemic and recent changes to the corporate structure. Key staff were redeployed into other areas relating to the pandemic and consequently FOI was not the most pressing priority during this time. It is worth noting, however, that other local authorities have experienced similar issues during this time. Accordingly, the [Information Commissioner’s Office](#) (ICO) announced that it would be taking a more flexible approach to FOI in view of the unique circumstances.
- 3.3 Going forward, upcoming deadlines will continue to be closely monitored with line manager involvement if necessary. Underperforming service areas will be investigated and discussed at monthly Information Risk Group (IRG) meetings with input from the Council’s Senior Information Risk Owner (SIRO).

4. Requests received by Service Areas, January – December 2020

- 4.1 Planning received the most requests with a total of 97 (15% of the total requests received across all service areas). Of these Planning-related requests, an impressive 91% were answered within the 20 working day time-scale.

- 4.2 The second busiest service area was Business Rates which received 68 requests, accounting for 10.5% of the total.
- 4.3 Thirteen service areas have exceeded the Information Commissioner’s Office regulatory performance target of 85%. Notably, nine service areas deserve special commendation for achieving a 100% compliance rate.
- 4.4 Twelve service areas are currently performing above the target of 90% as set by Corporate Management Team. 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 51 occasions during 2020 – marking a very similar trend to last year’s figure of 68.
- 5.2 This is largely due to the information being readily available on the Council’s website – e.g. information on expenditure, procurement, business rates, public health funerals, planning applications, houses in multiple occupation (HMOs).
- 5.3 The next most commonly applied exemptions were section 31 (law enforcement/ prevention of crime), which was used on 15 occasions, and section 40 (where third party personal data is involved) – used on 8 occasions.

6. Categories of Requester

- 6.1 The highest proportion of requests during 2020 came from members of the public, accounting for 41% of all FOI/EIR requests. This was followed by private companies at 26% of the total. See table below for full figures – which reveals a broadly similar pattern to that of 2019.

Fig 1 – Categories of Requester

Correspondent Group	No. of requests	%
Charity	15	2%
Private Company	166	26%
Professional body	43	6.5%
Campaign Group	14	2%
Media	52	8%
Political	13	2%
“WhatDoTheyKnow”	45	7%
Trade Union	2	0.5%
Academic	13	2%
Member of the Public	270	41%
Legal	4	0.5%
Other local authorities	6	2.5%

7. Internal and External Reviews

- 7.1 Five FOI/EIR requests went to internal review stage in 2020 – compared with ten during 2019, a reflection of the fall in overall number of requests received. One case concerning a contentious local construction project was referred to the Information Commissioner’s Office (ICO) for review. In this instance, the Council’s original decision to withhold certain information was overturned by the ICO.

8. Subject Access Requests (SARs)

- 8.1 The Council received 12 SARs in 2020 compared with 18 during 2019 and 25 during 2018. All requests were dealt with within the standard time limit.

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 Although the Council’s overall performance on the timely delivery of information requests has dropped due to the unique circumstances of 2020, twelve service areas have nevertheless exceeded the Corporate Management Team’s set target of 90%. Notably, nine service areas deserve special commendation for achieving a 100% compliance rate.
- 13.2 Approaching deadlines will continue to be closely monitored and enforced if necessary.
- 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

standards can be gradually improved and eventually return to targeted levels in the near future.

14. Background Papers

None

15. Appendices

Appendix 1: FOI/EIR Requests received by service area, 01/01/20 – 31/12/20