

Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Joint Strategic Director, Community Wellbeing

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Freedom of Information Compliance: Update Report

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.

Following a fall in performance standards during 2020-21 largely due to the Covid pandemic lockdown and recent corporate restructures, performance rates for timely delivery of FOI/EIR requests have since improved over the 2021-22 financial year as well as during the first half of the calendar year 2022.

Recommendation to Committee

That the Committee notes the improved response rates and officer actions and continues to receive regular 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.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

- 1.1 This 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

2021-22

- 3.1 The Council received 592 FOI/EIR requests during the financial year 2021-22 (April 2021 – March 2022). 92% of these requests were responded to within the 20-working day deadline. This marks a 10% improvement in performance from the 2020-21 financial year when 82% of requests were answered within the target. The Council therefore now exceeds the Information Commissioner’s performance indicator of 85%, and the 90% target agreed by Corporate Management Team.
- 3.2 Furthermore, following the Committee’s request to monitor, as an additional target, response rates dealt with within 10 working days, we can report that, during the 2021-22 financial year, 225 requests (38% of the total) were responded to within 10 or fewer working days.

2022-23

- 3.3 The Council’s performance rate for the first quarter of the current 2022-23 financial year (April to June 2022) sees a continuation of this trend with 93% of the 221 requests being on target.
- 3.4 Of these requests, 80 (36%) were closed within 10 or fewer working days.

4. Requests received by Service Areas, April 2021 – March 2022

- 4.1 Planning received the most requests over the twelve-month period with a total of 82 (over 13% of the total requests received across all service areas).
- 4.2 The second busiest service area was Environmental Health/Licensing which received 81 requests, followed by Business Rates with a total of 49.
- 4.3 Twenty service areas have exceeded the Information Commissioner's Office's regulatory performance target of 85%. Notably, nine service areas deserve special commendation for achieving a 100% compliance rate.

5. Exemptions

- 5.1 The most frequently used exemption under the Freedom of Information Act for withholding requested information (either partially or completely) was section 21 (information available by other means), which was used on 48 occasions - marking a similar trend to previous years.
- 5.2 This is largely due to the information being readily available on the [Disclosure Log](#) section of 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 exemption was section 40 (where third party personal data is involved) – used on 10 occasions.

6. Categories of Requester

- 6.1 The highest proportion of requests during the stated period came from members of the public (35% of all FOI/EIR requests), followed by private companies at 32% of the total. See table below for full figures – which reveals a broadly similar pattern to that of previous years.

Figure 1 – Categories of Requester, 2021-22

Correspondent Group	No. of requests	%
Private Company	187	32%
Professional body	19	3%
Charity/Campaign Group	23	4%
Media	55	9%
"WhatDoTheyKnow"	56	9.5%
Academic	24	4%
Member of the Public	210	35%
Other (includes Legal/trade unions/political/local authorities)	18	3%

7. Appeals/Reviews

- 7.1 Four internal reviews were received during 2021-22. Three upheld the original decision and in one case the appeal was allowed in part. Details are contained in the table below.

Figure 2 – Internal Reviews, 2021-22

Case ref	Case Title	Information requested	Received	Exemption	Outcome
IR2022/00151	Empty Commercial Properties	"Details of all current empty commercial properties within Authority, including Shops, Office, Retail Warehouses Industrial Units"	17/02/22	FOIA section 31 (law enforcement)	Original decision upheld
IR2022/00007	Planning evaluation reports	1. The Financial Viability Report provided by the applicants for planning application 14/P/02109 2. GBC's Consultants evaluation report of the Financial Viability Report	04/01/22	FOIA section 41 (information provided in confidence)	Appeal partly allowed
IR2021/01338	Planning application 21/P/01103	-a copy of all correspondence regarding planning application 21/P/01103	02/12/21	FOIA section 36 (prejudice to the conduct of public affairs)	Original decision upheld
IR2021/01189	Hedge complaints	The number of times measurements taken by GBC in relation to planning applications, high hedge complaints or any other measurements taken by Planning Development were disputed (2017-21)	05/11/21	FOIA section 12 (cost of compliance would exceed appropriate limit)	Original decision upheld

8. Data Subject Access Requests (DSARs)

- 8.1 The Council received 23 DSARs (i.e. requests for personal information relating to an individual) during 2021-22. 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 Now that performance levels are at expected standards in terms of target attainment, it is imperative that these standards are maintained. The appropriate measures will continue to be carried out in order to achieve this and to improve performance rates further.
- 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 maintained, and if possible, improved on.

14. Background Papers

None

15. Appendices

Appendix 1: FOI/EIR Requests received by service area, 01/04/21 – 31/03/22