

Corporate Governance and Standards Committee Report

Report of Director of Resources

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## Freedom of Information Compliance update

### Executive Summary

This is a regular report to monitor the Council's performance in dealing with Freedom of Information requests.

At the last report, the Council had improved its performance to 84 percent. As at 2 December 2015, the Council's performance was 80 percent. There is scope for improvement in order to meet the Council's performance indicator of 90 percent agreed by the Corporate Management Team and to meet the Information Commissioner's informal lower limit of 85 percent.

### Recommendation to Committee:

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

### Reason for recommendation

To ensure the Council meets its objective of 90 percent compliance.

## 1. Purpose of Report

1.1 The Corporate Governance and Standards Committee requested this regular report at its meeting of 4 June 2015 to ensure the Council improves the response timescales for Freedom of Information requests.

1.2 This report shows the performance for each service and a total for the Council.

## 2. Strategic Priorities

2.1 Complying with the Information Rights legislation is consistent with the five fundamental themes set out in the Council's Strategic Framework.

- 2.2 By promoting openness in the way the Council operates, we are able to support society in evolving a self-reliant and sustaining local community.

### **3. Background**

- 3.1 The Council is required to respond fully to Freedom of Information and Environmental Information requests within 20 working days. In exceptional cases, where the Council needs extra time to carry out a public interest test or to deal with a complex environment-related request, the timescale can be extended if the requester is kept informed.
- 3.2 During 2014, the Council dealt with 69 percent of requests within the above timescales (the Information Commissioner has an informal target of 85 percent). Corporate Management Team subsequently set a local target of 90 percent compliance to ensure that the Council satisfies the standard applied by the Information Commissioner's Office (ICO).
- 3.3 At its meeting on 4 June 2015, the Corporate Governance and Standards Committee requested regular updates on the Council's performance in complying with the Freedom of Information response timescales..

#### **Update on progress in 2015**

- 3.4 The first update to Committee on 15 September 2015 showed that the Council had improved its performance to 84 percent compliance as at 10 August 2015.
- 3.5 At 2 December 2015, the Freedom of Information (FOI) database showed that the Council had received 627 requests under FOI and the Environmental Information Regulations (EIRs) during 2015. (The monitoring report attached as an appendix shows 674 requests for 2015. Where a request has been assigned to more than one service area, the database will have double-counted the request for each of the services involved in dealing with it).
- 3.6 Overall, the Appendix shows that the Council was achieving 80 percent compliance as at 2 December 2015 – with some variation above and below that around individual service areas. This is less than the 90 percent KPI and below the minimum performance target of 85 percent, which the Information Commissioner's Office uses to identify public authorities for monitoring.
- 3.7 Due to the ongoing management restructure, a direct comparison against past performance is not possible at a service level at this stage.
- 3.8 As has been noted in the annual information rights compliance reports to this Committee, officers continue to make a case for a suitable FOI case management system to support the governance of formal information requests.

#### **Cause of current performance**

- 3.9. The causes for the continuing below-par performance are likely complex. Clearly, officers face a challenge to prioritise compliance with formal requests with other legitimate demands on their time.

- 3.10 A challenge for the Council is to ensure that all staff know that dealing with the public “right to know” is part of their core activities. This is likely a training and awareness issue. Classroom-style training in dealing with formal requests is available for staff at all levels within the organisation including senior managers.
- 3.11 The Council has been relying on an FOI case management system, which is not particularly fit for purpose as officers developed it quickly in 2012 as a temporary measure until the Council obtained a suitable system that would be able deal with the complexities of Freedom of Information. For example there are provisions in the Freedom of Information Act to “stop the clock” when officers need to go back to the requester for clarification on a request - and in very complex cases officers can even extend the response time to up to 40 days from receipt of the request. Officers may therefore have logged some requests as overdue when, in fact, they were answered within the statutory timescales allowed. The system is unlikely to be entirely to blame for the below-par performance indicator but the picture may not be as bleak as the performance indicator suggests.

#### **4. Consultations**

- 4.1 As this is a regular update for information purposes, no formal consultations were required.

#### **5. Equality and Diversity Implications**

- 5.1. Compliance with the Freedom of Information Act 2000 and the associated Regulations are a legal requirement and support the Council’s Equality Statement by being applicant and purpose-blind.

#### **6. Financial Implications**

- 6.1. There are no financial implications to this report.

#### **7. Legal Implications**

- 7.1 Regulation 5 (2) of the Environmental Information Regulations 2004 state, “Information shall be made available...as soon as possible and no later than 20 working days after the date of the request.”
- 7.2 The Freedom of Information Act 2000 Section 10(1) states, “a public authority must comply...promptly and in any event not later than the twentieth working day following receipt.”
- 7.3 The Council’s compliance with the information rights legislation therefore has direct legal implications. Failure to respond to requests appropriately risks reputational damage and active monitoring by the Information Commissioner’s Office.

## **8. Human Resource Implications**

- 8.1 There are no proposals in this report that have any direct human resource implications.

## **9. Summary of actions to be taken by officers**

- 9.1 Directors will ensure requests remaining overdue in their service areas are resolved as soon as possible.
- 9.2 Directors will ensure that they have formally delegated the coordination of formal requests within their service areas and that all relevant staff attend the corporate training available to them.
- 9.2 The Information Rights Officer will continue to provide updates for Corporate Governance and Standards Committee and monthly updates for Corporate Management Team so that Directors can follow up requests they are responsible for.
- 9.3. The Information Rights Officer will progress the FOI case management system business case.

## **10. Conclusion**

- 10.1 The Council has made some progress in improving its response timescales in comparison to last year but there is a challenge to ensure that the Council maintains the improvements consistently across the organisation.
- 10.2 There is scope for continued progress. The target of 90 percent compliance is achievable. Directors will need to ensure that the overdue requests identified for their services in the Appendix, are resolved as soon as possible. Corporate Management Team will need to continue to monitor progress to drive improvement.
- 10.3 The Council expects to obtain a suitable FOI case management system early in 2016 and this is likely to have a positive impact on future KPIs and the quality of reporting information.
- 10.4 Further progress will depend on continued governance, staff training and support to allow staff to prioritise requests.

## **11. Background Papers**

Report to Corporate Governance and Standards Committee 4 June 2015.  
Report to Corporate Governance and Standards Committee 15 September 2015

## **12. Appendices**

Appendix – Freedom of Information/EIR Monitoring at 2 December 2015.