

Corporate Governance and Standards Committee Report

Ward(s) affected: not applicable

Report of Director of Corporate Services

Author: Vincenzo Ardilio

Tel: 01483 444053

Email: vincenzo.ardilio@guildford.gov.uk

Lead Councillor responsible: Matt Furniss

Tel: 07891 022206

Email: matt.furniss@guildford.gov.uk

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Annual report on Guildford Borough Council's compliance with Information Rights legislation in 2015

Executive Summary

This is the annual report of the Information Rights Officer to show how the Council has performed in compliance with the Information Rights legislation. In 2015 there was:

- A decrease in the number of formal requests for information under the Freedom of Information Act 2000, Environmental Information Regulations 2004 and Data Protection Act 1998 (subject access requests),
- an improvement in response timescales in relation to requests made under the Freedom of Information Act 2000 and Environmental Information Regulations 2004 receiving a response outside of the statutory timescales, though still below the ICO's informal monitoring threshold,
- a slight increase in the number of reported information risk incidents

Recommendation to Corporate Governance and Standards Committee

That the action to be taken by officers as set out in this report, be approved.

Reason for Recommendation:

To ensure that the Council continues to improve its compliance with Information Rights legislation so it operates in an open manner whilst providing data privacy for individuals.

1. Purpose of Report

- 1.1 The Information Rights Officer is required to provide an annual report on the Council's compliance with the Data Protection Act 1998, Freedom of Information

Act 2000 and the Environmental Information Regulations 2004 to the Corporate Governance and Standards Committee. .

- 1.2 This report is for the 2015 calendar year and covers the following areas:
- a) formal requests under the Freedom of Information Act (FOI) and the Environmental Information Regulations (EIRs) – analysis of the management information available;
 - b) Information Commissioner’s Office (ICO) investigations in respect of the above;
 - d) data protection and privacy, including a summary of reported data protection breaches;
 - e) Information Rights issues for 2016 and beyond.

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 and data privacy for the individuals who use its services, we are able to support society in evolving a self-reliant and sustaining local community, while supporting our most vulnerable residents, who are often the subjects of the most sensitive information the Council holds.

3. Background

- 3.1 Individuals and legal persons have the right to request any recorded information held by or on behalf of the Council. The Council must respond to these requests within 20 working days in all but exceptional cases. Environmental information held by the Council falls under separate, but similar, access rules – namely the Environmental Information Regulations 2004. For ease of reference, requests for environmental information are included with Freedom of Information requests in this report.
- 3.2 Section 7 of the Data Protection Act 1998 provides any living individual with the right to request their own personal data from the Council. The Council must deal with these requests within 40 calendar days. At the time of writing, we used a separate system (from FOI requests) as they always involve protectively marked information and so we keep them as confidential as our discovery process will allow.
- 3.3 Schedule 1, Part 1, Principle 7 of the Data Protection Act 1998 requires us to take appropriate technical and organisational measures against unauthorised or

unlawful use of personal data and against accidental loss or destruction of, or damage to, personal data. We have a procedure for staff to report information security risk incidents. The Information Rights Officer reports the outcomes of investigations to the Director of Resources, who is the Senior Information Risk Owner (SIRO). The Information Rights Officer provides an anonymised summary to the Corporate Governance Group each quarter.

4 Performance with Freedom of Information Requests

4.1 Appendix 1 – Table 1 shows the number of requests received in 2015 in comparison to the previous calendar year, the percentage processed on time and the number of referrals to the Information Commissioner’s Office (that we know about). The figures reveal:

- a 20 per cent reduction of the number of requests received compared to last year (the first such reduction since the Freedom of Information Act came into force),
- an improvement of response timescales by 17 percent, though still below the informal ICO threshold of 85 percent,
- a significant reduction in the number of known referrals to the Information Commissioner’s Office,
- the Council’s first order to release previously withheld information. At the time of writing, the Council was appealing this decision to the First Tier Tribunal (Information Rights).

4.2 Appendix 1 – Table 2 shows the number of requests received by each directorate during 2015 and the percentage completed on time. This shows that the two directorates with the highest number of requests are Community Services and Resources.

5 Data Protection and Privacy

5.1 Appendix 1 – Table 3 shows the Council’s performance in relation to Data Protection and Privacy. This shows a decrease in the number of requests and an improvement in response performance. Ten information risk incidents were reported to the Information Rights Officer but none were of a serious enough nature to report to the ICO.

5.2 Appendix 2 – Table 4 shows a summary of information risk incidents in 2015. Five of the risk incidents were confirmed as low level breaches for local management, whereas the other five were categorised as “near misses”. Two of the confirmed breaches involved use of the Multi-Functional Devices for printing (MFDs). The other three confirmed breaches relating to the Council Tax and Benefits processes.

6 Future information rights issues

6.1 The Information Rights Officer will leave the Council at the end of June 2016, which is likely to result in a review of the Information Rights Officer role.

Freedom of Information and Environmental Information Regulations

- 6.1 The Council is in the process of implementing a new case management system for dealing with FOI and EIR requests. This is expected to go live in June 2016.

Data protection and privacy

- 6.2 The new General Data Protection Regulation (GDPR), which was adopted in April 2016 requires public authorities to have a Data Protection Officer (and defines the role and status of the Data Protection Officer) and introduces new requirements on record-keeping, consent and data subject rights.
- 6.3 The GDPR also increases the maximum fine that can be imposed on organisations for failure to comply, from £500,000 to €20,000,000 (or 4 per cent of the previous year's annual turnover, whichever is greater). The GDPR is likely to have a significant impact on the Council's information management, which will be the subject of a further report by the Information Rights Officer.

7 Consultations

- 7.1 This is a regular report and no formal consultation was necessary.

8 Equality and Diversity Implications

- 8.1 No implications apply

9 Financial Implications

- 9.1 This report does not propose any additional spending. However, the financial implications of a failure to comply with the Data Protection Act 1998 are considerable, as noted in paragraph 6.3.

10 Legal Implications

- 10.1 The Council's compliance with the information rights legislation has direct legal implications and failure to do so can result in costly enforcement action and compensation claims as noted in paragraph 6.3.

11 Human Resource Implications

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

12. Summary of Actions

- 12.1 Corporate Management Team will continue to monitor performance in relation to FOI and EIR requests.

12.2. The Information Rights Officer will report to Management Team on the suggested review of Data Protection at Guildford Borough Council in light of the GDPR.

13. Conclusion

13.1 The Council has made improvements in its handling of requests for information during 2015 and is in a position to continue to do so.

13.2 The Information Risk Incident reporting procedure appears to be well-established and although the number of information risk incidents increased slightly, they were all assessed as low impact. The Council has taken steps to address the vulnerabilities in each case.

14. Background Papers

14.1 General Data Protection Regulation

15. Appendices

15.1 Appendix 1 – Tables showing performance in relation to Freedom of Information and Environmental Information Regulation Requests and data protection and privacy