

Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Resources

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Date: 18 January 2018

Freedom of Information Compliance: Annual Report 2017

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 delivery of FOIs during the calendar year 2017 is 91.5%, which compares favourably with the figure of 89% recorded at the end of 2016. The Council therefore exceeds both the Information Commissioner's performance indicator of 85%, and the 90% target agreed by Corporate Management Team.

Appendix 1 shows details of requests received by service area for the year and Appendix 2 provides details of the types of person requesting information.

Recommendation to Committee

That the Committee notes the Freedom of Information Compliance Annual Report for 2017.

Reasons for Recommendations

- To ensure that Members are kept up to date with developments in the FOI/EIR framework
- To ensure that Members have 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 (PIT).

3. Update on progress in 2017

- 3.1 As at 7 December 2017, the Council had received 694 FOI/EIR requests during the calendar year. A total of 689 had been received at this stage last year, so the increase in volume has been negligible over the last 12 months.
- 3.2 The Council’s performance time currently stands at 91.5% of requests being closed within the statutory 20 working day period, compared with a figure of 89% in 2016 – a welcome increase of 2.5%.

4. Requests received by Directorate, January – December 2017 (up to 7 December 2017)

- 4.1 The Resources directorate received the most requests with a total of 241 (38% of the total number received).
- 4.2 Of these requests, 94% were answered within the 20 working day time-scale, which makes it joint best performing directorate alongside Planning and Regeneration.
- 4.3 All five directorates are currently performing above the Information Commissioner’s Office’s minimum performance target of 85%. This figure compares favourably with last year when four out of the five were above 85%.

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

Directorate	Number of requests received	Requests answered in time (within 20 working days)	Percentage answered in time
Environment	100	86	86%
Resources	241	227	94%
Management Team	17	15**	88%
Community	213	193	90.5%
Planning & Regeneration	56	53	94.5%
TOTAL/AVERAGE	627	574	91.5%

* Figures do not tally with total amount of requests received, as some requests are still open and within the statutory deadline at the time of writing, so are not included here.

**The two overdue requests both related to expenditure on communications and PR. For details of overdue requests from the other directorates (broken down by service area), see table in Appendix 1.

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 39 occasions to date this calendar year. This compares similarly with last year's figures when the same exemption was used 23 times
- 5.2 Most of these requests related to either business rates or public funerals.
- 5.3 This is largely due to business rates and public funerals 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 of FOIs. 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 exemption was section 12 (where the time and cost to collate the information would exceed the statutory limit of 18 hours) which was used 27 times – in comparison with a total of 14 times during the 2017 calendar year.

6. Internal Reviews and cases referred to the Information Commissioner's Office (ICO)

- 6.1 Eight requests so far this year have gone to internal review stage. Of those, five of the appeals were dismissed and three were allowed.
- 6.2 One case was referred to the ICO. In March 2017, the Council had received an Environmental Information Regulations (EIR) request for documents on vehicular access to the Blackwell Farm site in the context of the Local Plan. We withheld some of the information on the basis that it constituted unfinished or incomplete data and was therefore exempt under the EIRs. The requester was unhappy with the Council's decision and subsequently appealed to the ICO.
- 6.3 On 28 November, following completion of their investigation the ICO issued a decision notice which ruled in the Council's favour, upholding the exemption and therefore not requiring us not to take any further steps. The ruling has been published on the ICO website:

<https://ico.org.uk/media/action-weve-taken/decision-notices/2017/2172856/fer0664339.pdf>

7. Equality and Diversity Implications

- 7.1 No Equality and Diversity Implications apply to this report.

8. Financial Implications

8.1 There are no financial implications to this report.

9. Legal Implications

9.1 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.

10. Human Resource Implications

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

11. Summary of Actions

11.1 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.

12. Conclusion

12.1 The Council's overall performance on the timely delivery of information requests is now at the required standard. However, there is still room for improvement. The Council will continue to strive to achieve as close to 100% compliance as possible.

13. Background Papers

None

14. Appendices

Appendix 1: Requests received by service area, 01/01/17 – 10/12/17

Appendix 2: Categories of persons requesting information

Appendix 1 - Requests received by service area, 01/01/17 – 10/12/17

Service Area	Total requests	Total answered in time	Percentage
Asset Development	12	11	92%
Licensing	25	25	100%
Environmental Health	57	54	94%
Private Sector Housing	25	23	92%
Public Health	10	7	70%
Housing Advice	44	42	95%
Community Development	2	0	0%
Landlord Services	15	9	60%
Repairs	23	22	95.5%
Audit	2	2	100%
PR & Marketing	5	3	60%
Policy & Partnership	10	10	100%
Bereavement	3	3	100%
Fleet & Waste	8	6	75%
Cleansing/Recycling	33	28	85%
Engineers	2	2	100%
Heritage	1	1	100%
Local Economy	3	2	67%
Parking	29	25	86%
Parks & Leisure	21	19	90%
Major Projects	3	2	67%
Planning	53	51	96%
Benefits	8	8	100%
Business Rates	67	67	100%
Council Tax	19	18	95%
Customer Service	6	6	100%
Democratic Services	12	12	100%
ePayments	4	4	100%
Facilities Management	9	8	89%
Financial	24	20	83%
HR	28	25	89%
ICT	34	32	94%
Investigations	1	1	100%
Legal	26	23	88%
Payroll & Insurance	3	3	100%
TOTAL	627	574	91.5%

Appendix 2: Categories of persons requesting information

