
Audit & Procurement Committee
Cabinet Member (Policy & Leadership)

14 July 2014
5 September 2014

Name of Cabinet Member:

Cabinet Member (Policy & Leadership) – Councillor Mrs Lucas

Director Approving Submission of the report:

Executive Director Resources

Ward(s) affected:

None

Title: 2013/14 Annual Freedom of Information/Data Protection Act Report

Is this a key decision?

No

Executive Summary:

Under the Freedom of Information Act 2000 (FOIA) the Council is required to provide the public with a means for requesting information held by the Authority, subject to any exemptions that may apply.

Section 39 of FOIA requires the Council to process requests for environmental information under the Environmental Information Regulations (2004) (EIR). The EIR process, whilst similar to FOIA, promotes 'proactive dissemination' of information and provides fewer grounds for the Council to withhold information. Both FOIA and EIR permit personal data, as defined by the Data Protection Act 1998 (DPA), to be withheld where the applicant is not the subject of the data.

The Data Protection Act 1998 (DPA) requires the authority to process personal data in accordance with the principles of the Act, which includes providing a means for an individual to request access to information that the Council processes about them, subject to any exemptions that may apply.

The Information Commissioner's Office (ICO) oversees compliance with FOIA, EIR and DPA, promotes good practice, rules on complaints and takes appropriate action when the law is broken.

This report provides an overview of the number of requests for information received under the FOIA, EIR and DPA; the volume completed within the legislative timescales; the number and outcome of internal reviews; and the number and outcome of complaints made to the ICO about Coventry City Council during 2013/14.

Recommendations:

The Audit & Procurement Committee are requested to consider and note:

- (1) Note the Council's performance for responding to access to information requests report, the; number and outcome of internal reviews and the number and outcome of complaints made to the ICO; and
- (2) Recommend the Cabinet Member (Policy & Leadership) notes and approves the report as a formal record of the Council's performance and handling of requests, reviews and complaints under FOIA and DPA.

The Cabinet Member (Policy & Leadership) is requested to:

- (1) Note the Council's performance for responding to access to information requests report, the; number and outcome of internal reviews and the number and outcome of complaints made to the ICO and;
- (2) Consider any comments and recommendations provided by the Audit & Procurement Committee.

List of Appendices included:

None.

Other useful background papers:

None.

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

1. Context or Background

1.1 Requests for Information under FOIA/EIR

- 1.1.1 The Council is obliged to respond to information requests under FOIA/EIR within 20 calendar days provided that the requests are in writing, an address for responding to has been provided and it contains sufficient information for the Council to be able to confirm or deny whether the information is held, subject to any exemptions.
- 1.1.2 The Code of Practice, issued by the Secretary of State for Constitutional Affairs under S45 of FOIA, requires public authorities to have a procedure in place to deal with complaints in regard to how their requests have been handled. This process is handled by the Information Governance Team as an FOI/EIR review.
- 1.1.3 After a review has been completed an applicant has a right to complain to the ICO for an independent ruling on the outcome of the review. The ICO will issue a Decision Notice outlining whether the complaint has been: upheld, partially upheld, or not upheld and inform both parties of their decision and, where applicable, the actions the authority has to undertake.
- 1.1.4 Similarly, DPA provides individuals with a means for requesting personal data that the Council is processing about them. Requests have to be responded to if the applicant has provided sufficient information to: identify and confirm who they are and payment of the statutory £10 fee, if applicable. DPA requests have to be completed within 40 calendar days.
- 1.1.5 Like FOIA/EIR, the Council informs requesters of the Council's internal review process, however people may complain directly to the ICO if they feel their rights have not been upheld. Having made relevant enquiries or investigations, the ICO then issues their decisions to both parties. Such decisions may also be published to their website.
- 1.1.6 This report relates to the Council's handling of requests for information under FOIA, EIR and DPA; the number and outcome of internal reviews; and the number and outcome of complaints made to the ICO about Coventry City Council during 2013/14.

1.2 2013/14 FOIA/EIR Requests

- 1.2.1 As paragraph 1.1.1 above refers, the Council is required to respond to all valid FOI/EIR requests within 20 working days. The ICO monitors and publishes information about those authorities who respond to 85% (or less) of requests within 20 working days. During 2013/14 the Council received 1317 requests (1249 FOIA and 68 EIR), of which 1190 (90%) were completed within 20 working days. The Council does not record the reasons why requests exceeded the statutory timescale; however this can be due to several reasons such as: delays in identifying whether the information is held and/or internal deliberations around the application of any valid exemptions.

1.3 2013/14 FOIA/EIR Internal Reviews

- 1.3.1 The Council received 26 requests for FOIA/EIR internal reviews. The following table provides a summary of the reasons for the internal reviews and the outcomes by volume.

Freedom of Information Reviews		
No.	Reasons for the Review	Outcome
2	Withheld information was not personal data	Complaint not upheld - no further information provided
2	Information not supplied as requested	Complaints not upheld - no further information provided
8	Information was not provided although held	6 Complaints not upheld – no further information provided 2 Complaints upheld – additional information provided
1	Personal data (name of the complainant) disclosed unlawfully	Complaint upheld – information redacted from the published Disclosure Log
6	Questions not answered	4 Complaints not upheld – no further information provided 2 Complaints upheld – additional information provided
3	Questions not answered and exemptions applied incorrectly	Complaints not upheld – no further information provided
1	Response not received	Complaint upheld – information resent to correct address
1	Exceeded timescales	Complaint upheld – information provided along with apology

Environmental Information Regulations		
No.	Reasons for the Review	Outcome
2	Questions were not answered and exemption applied incorrectly	1 Complaint not upheld – no further information provided 1 Complaint upheld – additional information provided

1.4 2013/14 ICO Complaints re FOIA/EIR

- 1.4.1 The Council received 2 ICO complaints (1 FOIA, 1 EIR,) during the course of the year. A summary of the complaints, the ICO's decisions and outcomes are as follows:
- 1.4.2 FOIA Complaint: The Council withheld information relating to the investigation of an allegation of abuse of vulnerable adults.
- 1.4.3 ICO Decision: Not upheld and no further action was required.
- 1.4.4 EIR Complaint: The Council withheld correspondence in regard to the felling of trees. ICO Decision: Partially upheld - however the Council had reviewed their decision and disclosed additional information prior to the ICO decision being received. No further action.

1.5 2013/14 DPA Requests

- 1.5.1 The Council received 148 DPA subject access requests during the year, of which 119 (80%) were completed within 40 calendar days. The Council does not record the reasons

why requests exceeded the statutory timescale. However it is typically due to requests around social care matters which are both complex and involve substantial amounts of information, which needs to be considered and often redacted prior to any disclosure to protect the sensitive personal data of third parties.

1.6 2013/14 DPA Internal Reviews

1.6.1 The Council received 6 requests for DPA internal reviews. The following table provides a summary of the reasons for the internal reviews and the outcomes by volume.

Data Protection Act		
No.	Reasons for the Review	Outcome
4	Information incorrectly withheld	4 Complaints not upheld – no further information provided
2	Information disclosed unlawfully	2 Complaints not upheld – no further action

1.7 2013/14 ICO Complaints re DPA

1.7.1 The Council received 6 ICO complaints during the course of the year. A summary of the complaints, the ICO's decisions and outcomes are as follows:

DPA Complaint: The Council obtained sensitive personal information without a valid basis.

ICO Decision: Not upheld and no further action was required.

DPA Complaint: The Council had unlawfully disclosed sensitive personal data.

ICO Decision: Not upheld and no further action was required.

DPA Complaint: Concerns regarding the security of personal data processed by the Council

ICO Decision: Upheld with recommendations that: Council-wide policies and procedures for handling personal data, ensuring that the security and accuracy of personal data are adequately addressed; and a review the Council's approach to staff training to make it mandatory and that mandatory refresher training is provided at regular intervals.

3 DPA Complaints: Failing to comply with 3 data subjects' rights to receive information within 40 calendar days.

ICO Decision: Complaints upheld. Information to be released within specified timescales and a recommendation to strengthen processes to ensure future compliance with subject access requests.

2. Options considered and recommended proposal

2.1 It is important that the Council continues to monitor and report on its performance in relation to access to information requests, reviews and ICO complaints. This, together with the oversight of elected Members helps to promote high standards of information governance and continuous improvement. It is therefore proposed that the Officers continue to prepare an annual report goes to the Council's Audit & Procurement Committee and Cabinet Member (Policy & Leadership) to provide assurance that the Council is complying with its responsibilities under FOIA and DPA.

- 3. Results of consultation undertaken**
3.1 None
- 4. Timetable for implementing this decision**
4.1 None
- 5. Comments from Executive Director, Resources**
5.1 Financial implications
There are no financial implications in relation to the recommendations in this report.
- 5.2 Legal implications
There are no specific legal implications arising out of the recommendations. However, the Council's performance is subject to external scrutiny by the ICO. The monitoring and reporting on the outcomes of ICO complaints represents good practice and promotes good governance and service improvement.
- 6. Other implications**
None
- 6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**
The monitoring and reporting of the Council's performance for responding and handling access to information requests under FOIA and DPA together with all ICO complaints will promote high standards of information governance and contribute to the openness and transparency of the Council's decision making and commitment to continuous service improvement and equality.
- 6.2 How is risk being managed?**
The reporting and monitoring on the Council's performance and outcomes of ICO complaints will help reduce the risk of the ICO upholding complaints and taking enforcement action against the Council.
- 6.3 What is the impact on the organisation?**
As set out in 6.1
- 6.4 Equalities / EIA**
As set out in 6.1
- 6.5 Implications for (or impact on) the environment**
None
- 6.6 Implications for partner organisations?**
None

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Members: Councillor Mrs Lucas	Cabinet Member (Policy & Leadership)		4 July 2014	4 July 2014

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