Coventry City Council

Public report
Cabinet Member

Audit and Procurement Committee — 30 January 2023

Name of Cabinet Member:
Cabinet Member Policy and Leadership, Cllr G Duggins

Director approving submission of the report:
Chief Legal Officer

Ward(s) affected:
N/A

Title:
Information Governance Annual Report 2021/2022

Is this a key decision?
No

Executive summary:

Information is one of the Council's greatest assets and its correct and effective use is a major responsibility and is essential to the successful delivery of the Council's priorities. Ensuring that the Council has effective arrangements in place to manage and protect the information, both personal and business critical, it holds is a priority.

Data protection legislation sets out the requirements on organisations to manage information assets appropriately and how they should respond to requests for information. The Information Commissioner's Office (ICO) is the UK's independent supervisory authority set up to uphold information rights in the public interest, promote openness by public bodies and data privacy for individuals, and monitors compliance with legislation.

This report provides a summary of the Council's performance during 2021/2022 in responding to requests for information received under the above-mentioned legislation. It also reports on the management of data protection security incidents and/or those reported to the ICO and data protection training

Recommendations:

The Audit and Procurement Committee is recommended to:

1) Note the Council's performance on Freedom of Information, Subject Access and other Data Protection Act requests, including the outcomes of internal reviews and the number and outcome of complaints made to the ICO.
2) Note the reporting and management of data security incidents and/or those reported to the ICO.
3) Note data protection training compliance
4) Identify any comments or recommendations

List of Appendices included:
None

Background papers:
None

Other useful documents
None

Has it or will it be considered by scrutiny?
None

Has it or will it be considered by any other council committee, advisory panel or other body?
No

Will this report go to Council?
No

Report title: Information Governance Annual Report 2021-2022

1. Background

1.1 The Information Governance (IG) is the strategy or framework for handling personal information in a confidential and secure manner while ensuring compliance with the relevant statutory and regulatory requirements. IG within the Council is delivered through a distributed model of responsibility rather than through the sole responsibility of the IG Team, with key roles identified and assigned to ensure appropriate oversight and accountability:

- Head of Information Governance
- Information Governance Team
- Senior Information Risk Officer (SIRO)
- Data Protection Officer (DPO)/DPO Team
- Information Asset Owners (IAO)
- Information Asset Managers (IAM) (Heads of Service)
- Information Management Strategy Group

1.2 The function of Information Governance supports the Council's compliance with the UK General Data Protection Regulations GDPR (UK GDPR), Data Protection Act (DPA) 2018, Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations (EIR). The Council has a statutory obligation to comply with the IG framework by responding appropriately to requests and managing personal data lawfully. The IG Team assist the organisation by monitoring internal compliance, informing and advising on data protection obligations, providing advice and guidance and raising awareness on data protection matters.

1.3 The FOIA and EIR impose a statutory obligation on the Council to respond to requests for information within 20 working days, subject to relevant exemptions. The Code of Practice, issued by the Secretary of State for Constitutional Affairs under Section 45 of the 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 or EIR internal review. After an internal review has been completed an applicant has a right to complain to the Information Commissioner's Office (ICO) for an independent ruling on the outcome. Based on the findings of their investigations, the ICO may issue a Decision Notice. The ICO may also monitor public authorities that do not respond to at least 90% of FOI/EIR requests they receive within 20 working days.

1.4 The DPA 2018 provides individuals with the right to ask for information that the Council holds about them. These are also known as Subject Access Requests (SARs). The Council should be satisfied about the individual's identity and have enough information about the request. The timescale for responding to these requests is one month, starting on the day of receipt. Authorities can extend the time taken to respond by a further two months if the request is complex or a number of requests have been received from the individual, e.g. other types of requests relating to individuals' rights.

1.5 There is no requirement for the Council to have an internal review process for SARs. However, it is considered good practice to do so. Therefore, the Council informs applicants of the Council's internal review process. However, individuals may complain directly to the ICO if they feel their rights have not been upheld.

1.6 The Council also receives one-off requests for personal information from third parties including the police and other government agencies. The IG Team maintains a central log that includes exemptions relied on when personal data is shared with third parties. They provide advice and assess whether the Council can lawfully disclose the information or not.

1.7 The Council's management of data protection security incidents is undertaken by the Data Protection Officer Team, they record, investigate and where necessary, recommend actions to be taken based on the impact risk level.

1.8 The Data Protection Officer Team supports the Council in understanding the impact of plans, projects and activities on data protection through a process of impact assessments to support decision-making. The Council also has arrangements in place to support the sharing of data where appropriate and the team provide support in the preparation and sign off of on-going and one-off data sharing agreements.

2 Information Governance Annual Report 2021-2022

2.1 Context

2.1.1 The landscape in which public authorities are now operating has continued to change since the introduction of the GDPR and subsequently UKGDPR and the new Data Protection Act 2018 (DPA 2018) in 2018.

2.1.2 The pandemic particularly during periods of lockdown and subsequently has had a significant impact on ways of working and priorities. During this period, the Information Governance Team supported the Council to adapt and keep working effectively, supporting data to flow compliantly for the purposes of the Council's pandemic response and as new ways of working have been introduced to meet needs while ensuring the continuing protection of information.

2.1.3 This landscape will continue to change. Good information governance has an important part to play in the introduction of integrated care systems which are bringing partnerships of organisations together to plan and deliver joined up health and care services, and to improve the lives of people who live and work in their area and effective cyber security is a key element in protecting and preventing unauthorised access to personal information.

2.1.4 During the year the government launched its consultation 'Data: a new direction' to inform its development of proposals to reform the UK's data protection laws as part of the UK's National Data Strategy and the ICO has more recently launched its ICO25 plan which sets out how the ICO will regulate and prioritise work over the next three years.

2.2 Requests for information

2.2.1 The number of Freedom of Information Requests received by the Council, 1167 was slightly down (by 100 requests) from the previous 2020/21 year. The Council responded to 86% of FOIA/EIR requests within the target time of 20 working days in 2021/22 compared to 71% for the previous year (see table 2). Although a much better completion rate overall, the performance however remains below the 90% target set by the ICO.

2.2.2 The Council received 47 requests for internal reviews in the year 2021/22. The Council responded to these with the following outcomes:

- 8 were not upheld – the exemptions that had been applied were maintained and no further information was provided
- 8 were not upheld – but advice or clarification was provided
- 13 were partially upheld – some further was information provided
- 16 were upheld - information was provided
- 2 were withdrawn

2.2.3 11 complaints were made to the ICO during 2021/22. The reasons and outcomes for these were:

- 7 complaints related to the handling of the FOI/EIR and the exemptions engaged by the Council.
- 4 complaints related to Data Protection obligations and information rights and practices.

2.2.4 Of the 11 complaints referred to the ICO:

- 9 were not upheld/no further action required (four of these had Decision Notices issued)
- 1 case was closed by the ICO following no response from the complainant
- 1 complaint was upheld with a Decision Notice being issued to the Council and a direction to disclose the requested information.

Table 1. Number of FOI/EIR requests received

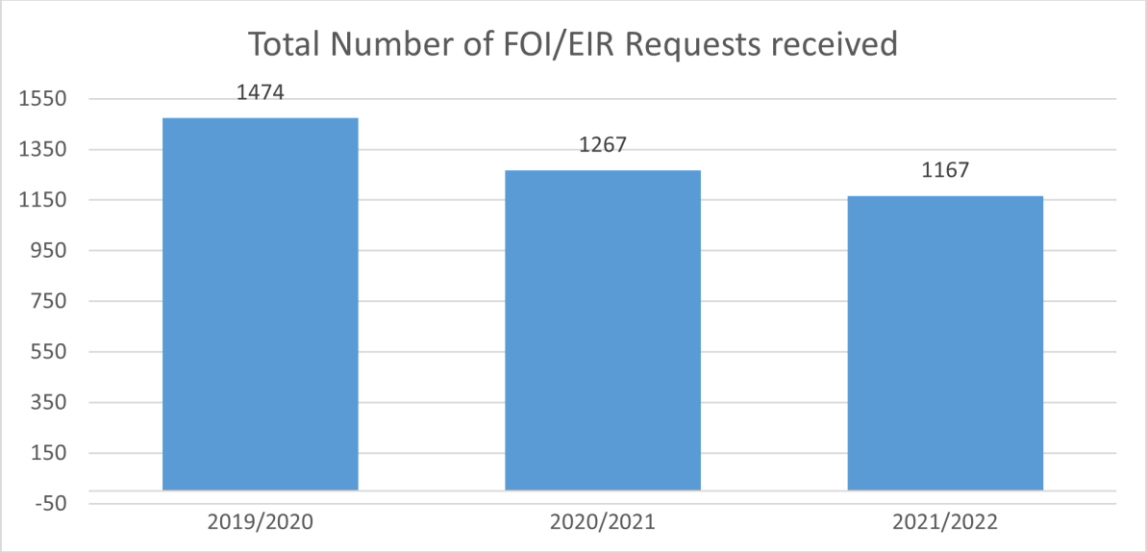
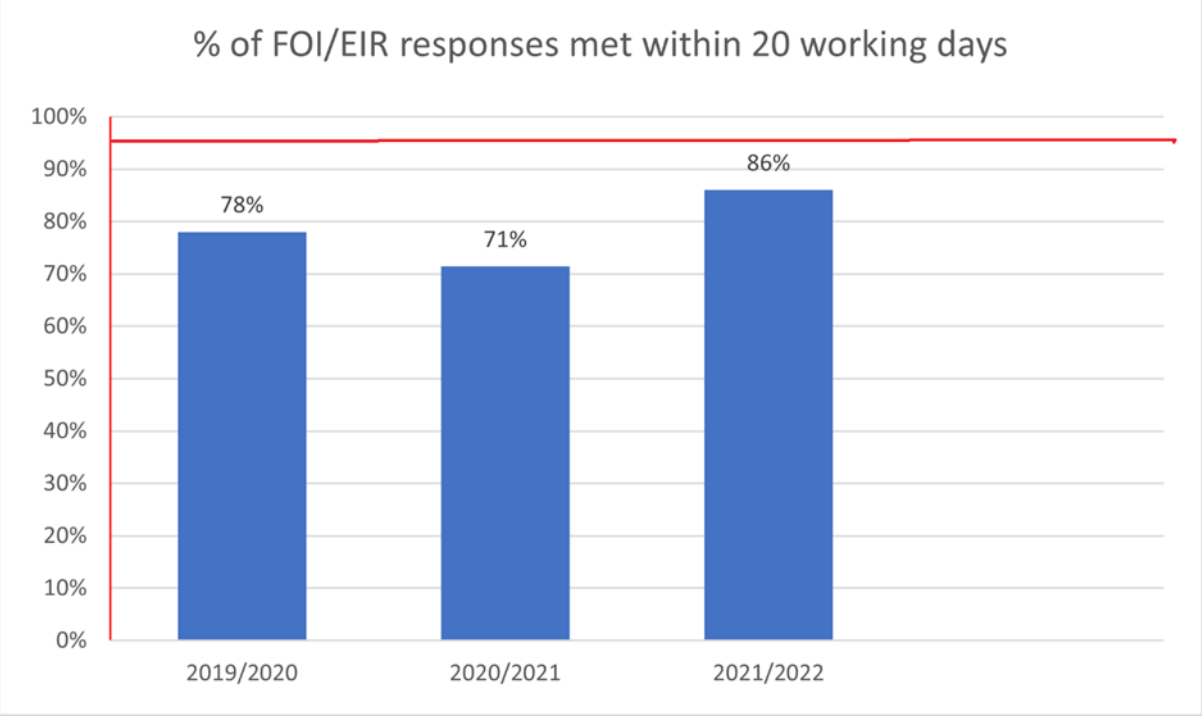


Table 2. Proportion of FOI/EIR requests completed within target time



2.2.5 The City Council already publishes a significant amount of information and identifying opportunities to increase the volume and type of information published (subject to legal compliance) will increase transparency and help to reduce the number of FOI's the Council receives because the information will already be available.

2.2.6 225 valid Subject Access Requests (SARs) were received during 2020/21. The number of Subject Access Requests received by the Council had been rising year on year since the introduction of GDPR but this represents a fall on the previous year (See table 3). While the Council receives fewer SARs than other information requests, many of these are complex and can involve managing significant amounts of sensitive information. While the overall number of requests reduced this year, the number of requests relating to Children's Social care increased, as did the number of SARs to which extensions were applied due to their size and/or complexity. The completion rate within the target time has seen a slight decrease to 79% (see table 4).

Table 3. Number of SAR's received

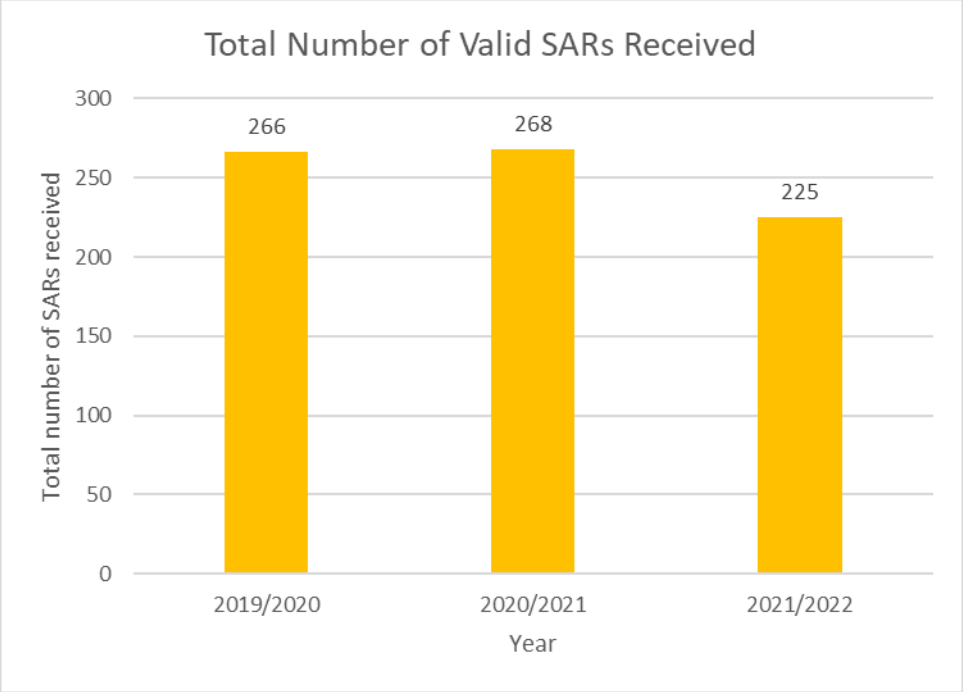
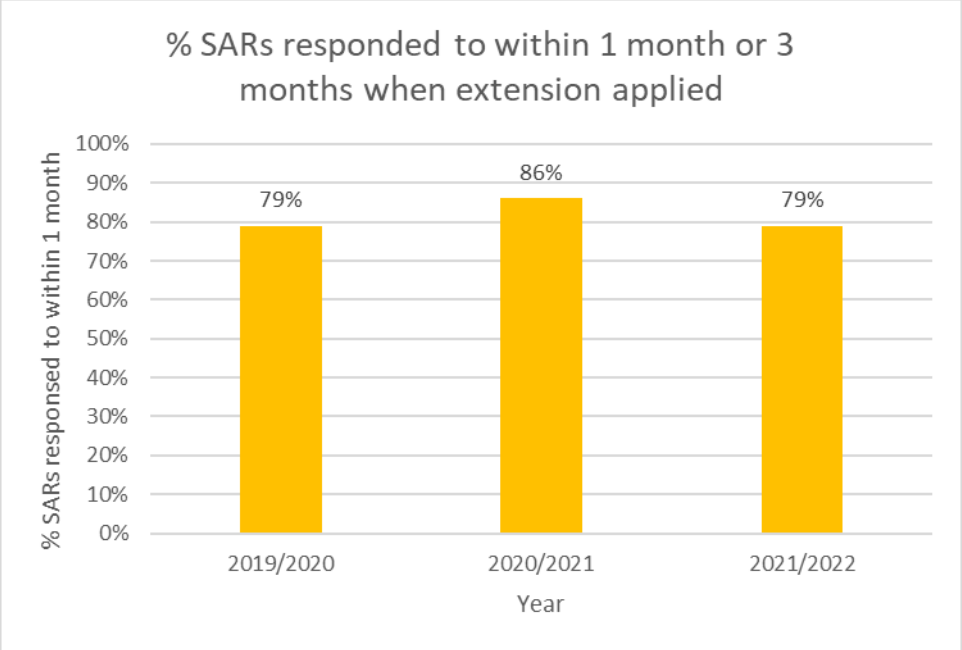


Table 4. Proportion of SARs responded to within target time



2.2.7 The Council received 14 requests to carry out an internal review into a SAR application during 2021/22. In 9 cases, further information was provided which was located through further searches based on information provided by the requester or by reviewing the information which had originally been redacted. Where information was not provided, this was due to the original exemptions being upheld or information not being held by the Council.

2.2.8 One complaint was made to the ICO related to Subject Access Requests in 2021/2022. The ICO found that the Council had not provided all the personal information the requester was entitled to and requested this was rectified and in future extra care was taken to provide all information the requester is entitled to where exemptions do not apply.

2.3 Data Security Incidents

2.3.1 Protecting information from theft, loss, unauthorised access, abuse and misuse is crucial in order to reduce the risk of data breaches or financial loss incurred through noncompliance with key legislation.

2.3.2 The IG data protection security incident reporting process supports the Council's objective that breaches are managed promptly, and outcomes of investigations are used to inform reviews of the control measures in place to keep personal information secure.

2.3.3 In addition, the Council actively encourages the reporting of near misses and potential breaches to identify learning, promote awareness and reduce the likelihood of a serious breach to information even though not all reported incidents will have resulted in a breach. Even where there is no breach, incidents can provide valuable insight into training requirements and processes and procedures which may need to be strengthened as a preventative measure. When investigating data protection security incidents, the Data Protection Team routinely consider resultant training needs and provide advice and guidance as required. Messages continue to be provided to staff alerting them to the need to protect personal data and use it appropriately.

2.3.4 In 2021/22, 263 reports of information security incidents were sent to the Data Protection Team, a decrease from 295 in the previous year. Of these, 135 did not involve a breach of personal data. These included for example near misses, loss or theft of equipment, cases where technical measures prevented access to data and incidents where a breach was contained. Of the incidents where a breach of personal data was identified, 120 were identified as low risk, 8 medium and 0 high. The majority of reports were classified as information being disclosed in error with 75 reports relating to technical/procedural errors, 24 reports relating to loss or theft of hardware and two to unauthorised access.

2.3.5 The GDPR introduced requirements for personal data breaches that meet certain thresholds to be reported to the ICO. One self-report was made to the ICO during 2021/2022. The ICO were satisfied that Coventry had self-reported and were taking appropriate measures in response to the breach. The ICO raised seven recommendations for the Council to consider as part of their breach investigation, many of which had already been addressed, but took no additional action themselves.

2.4 Training and Awareness

2.4.1 Data Protection training is key to ensuring staff are aware of their responsibilities. Training is currently delivered through the Council's e-learning platform and annual completion of the data protection course is mandatory for all staff with access to personal data. Staff who do not have access to a computer in their role (not office based) and those with minimal personal data involved in their role are provided with appropriate level training. This ensures that an appropriate level of understanding and awareness is reached that is relevant to their role/responsibilities.

2.4.2 For the 2021/22 year, the Council reported a completion rate of the Council's mandatory data protection training of 90%. During the year, Council adopted an Elected Member Training and Development Strategy which also includes data protection training.

2.4.4 In addition to the above, ICT have delivered awareness sessions specifically relating to cyber security and regular cyber security messages are issued by ICT to staff. This has included a programme of awareness raising during cyber security month.

2.5 Data Security and Protection and Toolkit

2.5.1 The Data Security and Protection Toolkit is an online tool that allows relevant organisations that process health and care data to measure their performance against data security and information governance requirements which reflect legal rules and Department of Health policy. This self-assessment tool enables the Council to demonstrate that it can be trusted to maintain the confidentiality and security of personal information, specifically health and social care personal records.

2.5.2 All organisations that have access to NHS patient data and systems use this Toolkit to provide assurance that they are practicing good data security and that personal information is handled correctly.

2.5.3 For the 2021/22 reporting period, the Council met all of the mandatory requirements with the exception of the element relating to data protection training where it reported that 90% of relevant employees had completed data protection training in the previous year, compared to the target of 95%. The Council was assessed as "approaching standards" and is working to improve targeting, uptake and monitoring of progress.

3. Options considered and recommended proposal

3.1 It is essential that the Council continues to monitor and report on its performance in relation to access to information requests, information security incidents and training completed in order to promote best practice information governance and drive continuous improvement in the Councils ability to comply with the laws relating to information.

4. Results of consultation undertaken

4.1 None

5. Timetable for implementing this decision

5.1 Not applicable

6. Comments from Chief Operating Officer (Section 151 Officer) and Chief Legal Officer

6.1 Financial Implications
There are no specific financial implications resulting from the issues within this report although it is worth noting that the Information Commissioner's Office is able to levy significant fines for serious non-compliance with the legislation surrounding the management of information.

6.2 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, who have the authority to impose sanctions upon the Council for non-compliance. The monitoring and reporting on the outcomes of ICO complaints represents good practice and promotes good governance and service improvement.

7 Other implications

7.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

The monitoring and reporting of the Council's performance regarding responding to, and handling access to information requests under FOIA and DPA 2018, including any complaints made to the ICO will enable continuous improvement, raise awareness and promote high standards of information governance, fostering a culture of openness and transparency within the Council and demonstrating our commitment to best practice information governance, security, and protection.

7.2 How is risk being managed?

The reporting and monitoring on the Council's performance to information laws and outcomes of ICO complaints will help protect information and reduce the risk of the ICO upholding complaints and taking enforcement action against the Council.

7.3 What is the impact on the organisation?

Operating best practice Information Governance and Security will support public confidence in the Council, offering assurance to service users of the council's commitment to Data

Protection and Transparency. Partner and client organisations will have the assurance they required in order to engage with the Council and share data. The risks of serious breaches of personal Data/Information Assets should be reduced, protecting information and reducing the likelihood of action by the ICO.

7.4 Equalities / EIA?

The Council's responsibilities under Section 149 of the Equality Act 2010 are supported by UK GDPR/DPA2018, requiring that Special Category Data is afforded extra measures of security to protect that data.

7.5 Implications for (or impact on) climate change and the environment?

None

7.6 Implications for partner organisations?

As set out in paragraph 7.3 above.

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