

# Scrutiny Board

4 July 2017

<b>Report title</b>	Information Governance Performance Report – Quarter Four 2016/17	
<b>Cabinet member with lead responsibility</b>	Councillor Milkinderpal Jaspal Governance	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Kevin O’Keefe, Governance	
<b>Originating service</b>	Democracy	
<b>Accountable employee(s)</b>	Anna Zollino-Biscotti	Information Governance Manager
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<b>Report to be/has been considered by</b>	Cabinet Performance Management Panel	12 June 2017
	Information Governance Board	21 June 2017

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## Recommendation(s) for action or decision:

The Scrutiny Board is recommended to:

1. Review and comment on the quarter four performance for Information Governance (IG)
2. Identify and feedback any further action that may be necessary.
3. To note the IG performance figures for 2016/2017 for Freedom of Information (FOI)/Environmental Information (EIR) requests and Subject Access requests (SAR).
4. To note the year on year performance figures for both regimes.
5. To note the FOI/EIR and SAR performance for the calendar year 2016, in comparison with regional local authorities.
6. To note the progress that is being made in relation to the new General Data Protection Regulation (GDPR) and consider receiving quarterly progress reports on this matter.

## **1.0 Purpose**

- 1.1 To report on the performance of Information Governance for quarter four (January – March 2017).

## **2.0 Background**

- 2.1 The Information Commissioner's Office (ICO) conducted consensual audits of the Council in October 2011 and July 2012.
- 2.2 The October 2011 audit covered requests for personal data and requests made under the Freedom of Information Act 2000 (FOI). The ICO's subsequent overall opinion was that there was a very limited assurance that processes and procedures were in place and being adhered to.
- 2.3 The ICO carried out a further audit on 19 July 2012 to measure the extent to which the City of Wolverhampton Council had implemented the agreed recommendations and identify any subsequent change to the level of assurance previously given. This was based on an update provided in March 2012 and subsequent management information. The ICO raised the Council's status from Red "Very Limited Assurance" to Amber "Limited Assurance" as an acknowledgement that progress had been made.
- 2.4 The Council provided a final management update to the ICO on 20 December 2012, after which the ICO confirmed that the audit process had been brought to a conclusion. Throughout 2013, work continued to ensure that a strategic approach was adopted to how the Council managed information assets.
- 2.5 In February 2014, the ICO had asked for further updates on our progress, as a result of information incidents the Council was managing. The Council was then placed under an enforcement notice to achieve 100 % of employees having undertaken the mandatory 'protecting information training'.
- 2.6 In June 2014, the Council complied with the enforcement notice and achieved 100 % of employees completing the 'protecting information' training.
- 2.7 In June 2016, as a result of an information incident, the Council signed a written undertaking with the ICO to ensure that all staff handling personal data receive data protection training and that it is refreshed at regular intervals not exceeding two years. In addition, the Council was also required to devise and implement a system to monitor training.
- 2.8 In March 2017, the Council complied with the requirements of the written undertaking and achieved 100% of employees completing the mandatory "protecting information" training and demonstrated that it had implemented a system to monitor training.
- 2.9 In order to ensure on-going improvements with information governance this report outlines current performance.

### 3.0 Progress/Update

- 3.1 **IG Performance** - The IG performance figures for quarter four are contained in **Appendix A**.
- 3.2 318 requests were received for Freedom of Information /Environmental Information (FOI/EI) which is 42 more than those received in quarter three. All requests were responded to within the statutory 20 day timeframe, which equates to a 100 % response rate.
- 3.3 79 requests were received for Data Protection which is two less than the numbers received last quarter. All requests, with the exception of one request, were responded to within the statutory 40 day timeframe. This equates to a 99 % response rate for the quarter.
- 3.4 The number of information incidents reported for the quarter has increased. 22 incidents were reported this quarter, which is four more than the number reported in quarter three. Similar to the last quarter, 18 of the 22 incidents reported (82 %) were of the incident type "Disclosed in error".
- 3.5 There were 79 new starters in quarter four whose role requires them to deal with personal data on a regular basis; this is lower than the number who joined the council in quarter three. Out of this number, 44 completed the mandatory protecting information module, which only equates to 56 %.
- 3.6 A summary of the performance figures for both FOI/EI requests and Data Protection Requests for the year 2016/2017 are contained in **Appendix B**.
- 3.7 The first two graphs show the volumes of information requests received for both regimes for the year. In summary, the volume of FOI/EIR requests remained static for the first two quarters of the year; however, a steady increase can be seen in quarters three and four. This is the opposite to the volumes received for SAR requests, with volumes decreasing between quarter one and two and then almost remaining on a plateau in quarters three and four.
- 3.8 The last graph titled "FOI/EIR and SAR year on year" also shows the volumes of information requests received into the Council year on year since 2010/2011 (FOI/EIR requests) and 2014/2015 (SAR). **Please note that performance figures for subject access requests (SAR) were not recorded centrally prior to 2014.**
- 3.9 In summary, the graph shows that the numbers of FOI/EIR requests received into the Council peaked in 2014/15. The number of requests received for this 2016/17, are again lower than the previous year – thus showing a downward trend in volumes for the last two years.

- 3.10 The same pattern is also evident in relation to the volumes of SAR requests received; as again fewer requests have been received than last year which again replicates the downward trend in volumes as per FOI/EIR requests.
- 3.11 In terms of performance, the graph shows that for both FOI/EIR and SAR requests, our response rate has continued to increase. In general, FOI/EIR performance has steadily increased from a response rate of 71 % recorded for 2010/11 to 99.63 % achieved this year. Similarly, the response rate for SAR requests has also increased from 82 % in 2014 to 99 % this year.
- 3.12 **Appendix C** shows how we compare with two of our neighbouring local authorities; Birmingham City Council and Dudley Metropolitan Borough Council. The graph shows the total number of information requests received in each council for FOI/EIR and SAR for the calendar year January to December 2016, and also shows the average percentage response rate for responding to requests within the statutory timeframes of both regimes. **Please note that seven local authorities were contacted, out of which three responded. Only two authorities provided figures that could be used in a comparable context.**
- 3.13 **General Data Protection Regulations (GDPR)** – On 14 April 2016, the EU Parliament approved the General Data Protection Regulation. The following month, it was published in the Official Journal of the European Union which means it will be directly applicable throughout EU member states without the need for implementing further legislation from 25 May 2018. In October 2016, the Government confirmed that it will implement the GDPR in the UK.
- 3.14 The Information Governance (IG) team have for the last nine months collaborated with other local authorities and public bodies who form part of the West Midlands Regional IG Forum to work through the changes and implications that the new regulation will bring.
- 3.15 In addition, the IG team have carried out an initial review of the Council's current status against future requirements and this has been translated into an action plan that the team is working to with the cooperation of service teams and departments within the Council.
- 3.16 Both the Information Governance Board and Senior Executive Board (SEB) have been briefed regarding the GDPR requirements. Quarterly progress reports will continue to be submitted to both boards for the next 12 months until the regulation comes into force and the programme of work comes to an end.
- 3.17 Adherence to and implementation of the GDPR work programme will assist the Council in meeting the requirements of the new regulation and will ensure that ongoing compliance to data protection legislation is maintained.

#### **4.0 Financial implications**

- 4.1 There are no financial implications associated with the recommendation in this report as Councillors are requested to review the progress made on information governance.
- 4.2 It is worth noting, however, that a failure to effectively manage information governance carries a financial risk. Inaccurate and out of date information can lead to poor decision making and a potential waste of financial resources. In addition to this, poor information governance can actually result in a fine of up to £500,000 per breach from the ICO.  
[GE/19062017/Z]

#### **5.0 Legal implications**

- 5.1 The Council has a legal duty under the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004 to appropriately manage and protect information assets.
- 5.2 The integration of Public Health into the Council in April 2012 required the Council to provide assurance to the NHS that it had in place suitable information governance policies, procedures and processes. The Council makes an annual submission of the NHS IG Toolkit which continues to provide such assurances in relation to the safeguarding of personal sensitive, health and social care, data.
- 5.3 Failure to effectively manage information governance could increase risk of exposure to fraud and malicious acts, reputational damage, an inability to recover from major incidents and potential harm to individuals or groups due to inappropriate disclosure of information.
- 5.4 The Information Commissioner has the legal authority to:
- Fine organisations up to £500,000 per breach of the Data Protection Act or Privacy & Electronic Communication Regulations
  - Conduct assessments to check organisations are complying with the Act
  - Serve Enforcement Notices and 'stop now' orders where there has been a breach of the Act, requiring organisations to take (or refrain from taking) specified steps in order to ensure they comply with the law
  - Prosecute those who commit criminal offences under Section 55 of the Act
  - Conduct audits to assess whether organisations processing of personal data follows good practice
  - Report issues of concern to Parliament.
- [TS/19062017/Q]

#### **6.0 Equalities implications**

- 6.1 There are no equality implications arising from this report and its recommendations.

6.2 All policies and procedures developed as part of the information governance maturity model will undergo an equalities analysis screen and full analysis if appropriate.

## **7.0 Environmental implications**

7.1 There are no environmental implications arising from this report.

## **8.0 Human resources implications**

8.1 All employees are required to comply with Information Governance legislation and are required to complete the mandatory 'protecting information training'.

## **9.0 Corporate landlord implications**

9.1 There are no corporate landlord implications arising from this report.

## **10.0 Schedule of background papers**

10.1 Update on Information Governance report to Cabinet – 26 March 2014.