

Cabinet (Performance Management) Panel

23 March 2020

Report title	Information Governance Quarter Three Performance Update Report	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Ian Brookfield Leader of the Council	
Key decision	No	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Director	David Pattison, Director of Governance	
Originating service	Information Governance	
Accountable employee	Anna Zollino-Biscotti	Information Governance Manager and Data Protection Officer
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Report to be/has been considered by	Governance Leadership Team	17 February 2020
	Strategic Executive Board	10 March 2020
	Information Governance Board	24 March 2020

Recommendation for decision:

The Cabinet (Performance Management) Panel is recommended to:

1. Review the quarter three performance for Information Governance.

1.0 Purpose

- 1.1 To provide an update on the Information Governance performance figures for quarter three 2019-2020.

2.0 Background

- 2.1 The Information Commissioner's Office (ICO) has been interacting with the Council on information governance matters for several years. Considerable improvements have been made since their consensual audits in 2011 and 2012, which focused on requests for personal data (Subject Access Requests – SAR) and Freedom of Information (FOI).
- 2.2 Work has continued since the conclusion of the audit and a strategic approach to Information Governance has been adopted to ensure that the Council appropriately manages its information assets; this includes managing data protection as a corporate risk and monitoring the risk via the Council's Strategic Risk Register.
- 2.3 Considerable improvements have been made in terms of processing information requests and the Council's overall statutory response rates have improved dramatically over the last five years.
- 2.4 To ensure ongoing improvements with information governance this report outlines current performance.

3.0 Progress for quarter three

- 3.1 The IG performance figures for quarter three are contained in appendix 1.
- 3.2 FOI Freedom of Information and Environmental Information (FOI/EIR) – 391 requests were received this quarter which is comparable to the previous quarter (389) and the highest volume received per quarter since 2015. Fourteen requests for information were responded to outside of the statutory deadline, equating to a response rate of 96.4%, which although slightly lower than previous quarters, remains well within the 90% response threshold as established by the Information Commissioner's Office. In terms of year to date volumes, the number of requests received looks set to exceed those of the previous year and performance remains high at 98.3%
- 3.3 Data Protection (DP/SAR) – 212 requests for personal data were received in this quarter, which is comparable with quarter two figures (202). As previously established this includes both subject access requests and third-party disclosure requests. The number of subject access requests (SAR) received for the quarter is 67, a slight increase from the previous quarter (59). The number of third-party disclosures received for the quarter was 145, which is comparable to the previous quarter (143). All disclosures were responded to within the statutory timeframe of 30 calendar days and only one SAR was responded to outside of this parameter, leading to an overall response rate of 99.5%. The late SAR was one of the more complex and voluminous cases involving a review of social care records covering a 12-year period (circa in excess of 5,500 pages).

3.4 Information Incidents – 29 information incidents were reported to the Information Governance Team this quarter, which is five fewer than the number reported for the previous three months (34). This may indicate a downward trend from quarter four 2018-2019, however the total volume of incidents reported to date remains on track to equal those reported last year, post the implementation of General Data Protection Regulation (GDPR). All incidents reported for the quarter were categorised as low risk (green), with the exception of one which was categorised as a medium risk (amber).

4.0 Evaluation of alternative options

4.1 No alternative options have been considered or evaluated since this report is to provide an update on progress in terms of IG performance.

5.0 Reasons for decision(s)

5.1 No decisions have been presented for approval since this report is an update on progress in terms of IG performance.

6.0 Financial implications

6.1 There are no financial implications associated with this report as Councillors are requested to review the information governance performance figures. All work associated with meeting information governance requirements is covered through existing budgets.

6.2 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. Following the implementation of the General Data Protection Regulation (GDPR), a two-tiered sanction regime with higher financial penalties is in place. Lesser information incidents can now be subject to a maximum fine of either €10 million or 2% of an organisation's global turnover, whichever is greater. More serious violations could result in fines of up to €20 million or 4% of turnover.

[SR/17022020/M]

7.0 Legal implications

7.1 The Council has a legal duty under the current Data Protection Act 2018, GPDR 2016/679, Freedom of Information Act 2000 and Environmental Information Regulations 2004 to appropriately manage and protect information assets.

7.2 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.

7.3 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.

7.4 The Information Commissioner has the legal authority to:

- Fine organisations for breaches of Data Protection 2018 or Privacy & Electronic Communication Regulations. With the implementation of the GDPR on 25 May 2018, a two-tiered sanction regime was introduced, and higher financial penalties are being adopted by the ICO. Lesser information incidents can now be subject to a maximum fine of either €10 million or 2% of an organisation's global turnover, whichever is greater. More serious violations could result in fines of up to €20 million or 4% of turnover.
- 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 to ensure they comply with the law.
- Prosecute those who commit criminal offences under section 170 of the DPA 2018 (previously section 55 of the 1998 Act.)
- Conduct audits to assess whether organisations processing of personal data follows good practice.
- Report issues of concern to Parliament.

7.5 Demonstration of the Council's compliance with the current Data Protection Law protects it from legal challenges for alleged breaches of individuals' rights.
[TS/17022020/W]

8.0 Equalities implications

8.1 Having considered the equalities issues presented under the new legislation - Data Protection Act 2018 and GDPR 2016/679, no new implications have been identified from associated actions or recommendations of this report.

9.0 Climate Change and Environmental implications

9.1 There no direct corporate climate change and environmental implications identified.

10.0 Health and Wellbeing Implications

10.1 There are no direct health and wellbeing implications identified.

11.0 Human resources implications

11.1 There are no direct human resource implications identified.

12.0 Corporate landlord implications

12.1 There no direct corporate landlord implications identified.

13.0 Schedule of background papers

13.1 IG Quarter One Performance report presented to Cabinet (Performance Management) Panel – 16 September 2019 and IG Quarter Two Performance report presented to Cabinet– 17 December 2019

14.0 Appendices

14.1 Appendix 1 – Information Governance Q3 2019-2020 Info-graph