

CORPORATE AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL 9 SEPTEMBER 2020

FREEDOM OF INFORMATION AND SUBJECT ACCESS REQUEST PROCESSES AND COUNCIL COMPLIANCE WITH DATA PROTECTION LEGISLATION

Summary

1. The Corporate and Communities Overview and Scrutiny Panel are asked to consider a report on the processes used by the Council to manage requests for information made under both freedom of information and data protection legislation, and to provide an overview on how the Council complies with data protection legislation (primarily the General Data Protection Regulation (GDPR) and Data Protection Act 2018).
2. The Cabinet Member with Responsibility for Transformation and Commissioning and the Strategic Director of Commercial and Change have been invited to attend the meeting to update the Panel.

Background

3. This report was requested by the Panel having been identified as a matter of interest in the Panel's work programme.
4. Under the Freedom of Information Act (FOI), people can make a request for any information held by the Council; the Environmental Information Regulations (EIR) provides a broadly similar access route for environmental information.
5. Under data protection legislation (DP), primarily the General Data Protection Regulation and the Data Protection Act 2018, individuals have rights in relation to the information the Council holds about them. This includes the right to be provided with a copy of the information the Council holds about them (a 'subject access request').
6. While the Council has to process and consider each request we receive, the Council does not always have to provide the requester with the information we hold as there are exemptions and exceptions which means we do not always provide the requester with the information they are seeking. For example, personal data (information about individuals) would not usually be included in a response to a FOI request which puts the information into the public domain.

Issues for the Panel to Consider

Freedom of Information and Environmental Information requests

7. Valid requests – Requests can be made to any Council officer and they do not need to mention the legislation, they do need to ask for 'recorded information' and the

requester needs to provide a name. FOI requests need to be put in writing, EIR requests can be made verbally.

8. Timescales - Both types of request have to be answered within 20 working days commencing the day after the request is received.

9. Charges - In FOI, fees can be charged for any hours it will take to respond to a request over the 'appropriate limit' rather than refuse the request (requests can be refused if they will take more than 18 hours to find, extract, and collate the relevant information). However, the first 18 hours cannot be charged for, and the fees notice must be issued before the work is completed.

10. Process for answering requests – Requests are coordinated by the Corporate Information Management Unit (CIMU), part of IT & Digital. They are centrally logged, assessed and allocated to the relevant Directorate or service area Information Access Coordinator (IAC) with any relevant advice about how to identify, collate, and respond to the requester.

11. Request Management System – An in-house built request management system, Veritas, is used to manage all FOI and EIR requests and people can make a request directly into the system from the Council's website. The system then manages the whole request process from beginning to end, tracking who has been asked to find information, facilitating the supply of the information to the relevant IAC so the appropriate response can be drafted, to the final response to the request and any disclosure of information requested. The system includes a series of template letters to assist consistent and compliant responses across the whole Council and includes facilities to record requests for internal review of our responses and any subsequent referral to the Information Commissioner's Office (ICO).

12. The Council have received the following numbers of requests for information under FOI and EIR:

Year	Measure	Adult Services	Children's Services / WCF	CIMU*	Commercial and Change	Economy & Infrastructure	Public Health	Total
2018-19	No. of Requests	139	318	296**	323	438	36	1550
	Percentage completed on time	91.4%	69.2%	88.9%	69.3%	94.1%	94.4%	82.6%
	Unique Requesters							1130
2019-20	No. of Requests	125	278	57	400	595	35	1490

	Percentage completed on time	92.0%	86.7%	86.0%	82.5%	98.5%	80.0%	90.5%
	Unique Requesters	1019						
2020-21 to date	No. of Requests	34	45	25	105	134	9	352
	Percentage completed on time	85.3%	71.1%	96.0%	78.1%	99.3%	88.9%	87.5%
	Unique Requesters	280						

* These are usually requests where the scope covers multiple IACs, or further information is required to enable us to process the request.

** This figure for 2018-19 is the result of mis-recording by staff in CIMU

13. Rather than record the actual time taken to complete requests as this can be difficult to do with any certainty when several people are involved in responses (including staff from CIMU, IACs and the actual business areas), requests are categorised into one of three categories of time taken to complete the request:

Year	Less than 5 hours	Between 5 and 15 hours	Over 15 hours	Total
2018-19	1334	177	39	1550
2019-20	1362	95	33	1490
2020-21 to date	312	24	16	352
Total	3008	296	88	3392

Subject Access Requests (SARs)

14. Requests can be made to any Council officer and they do not need to mention the legislation and can be made in writing or verbally. The Council needs to verify the identity of the requester, usually by requesting two documents confirming name, address and date of birth. Requests can be made by third parties (e.g. solicitors) if sufficient authorisation is provided. Requests are subject to a timescale of 1 month, commencing the day the request is received, unless it is considered complex or numerous when a further 2-month extension to be timescale can be applied. A fee cannot be charged for SAR requests unless it is assessed as 'manifestly unreasonable' and we decide to process the request rather than refuse the request, or if a request asks for additional copies of information.

15. Requests are centrally coordinated and logged by CIMU who provides advice, guidance, and request specific training to officers who are assigned subject access requests to respond to. In respect of requests for information from education and social services (comprising the majority of requests received), a dedicated team in CIMU completes the end-to-end process for Children's Services and Worcestershire Children's First, and the Business Operations Team complete the same for Adult requests.

16. Relevant information is searched for, extracted and then worked through to ensure that any personal data the requester is entitled to receive is identified for disclosure and any information that is subject to an exemption is removed (for example information about other third party individuals). This is then reviewed by the relevant business area to quality check the disclosure before the information is sent to the requester, usually by Royal Mail Special Delivery.

17. The Council have received the following numbers of subject access requests. As we need to validate the identity of the requester before we can process a SAR, some requests do not progress from an enquiry:

Year	SAR enquiries received	Enquiries progressed to full requests	Total cases completed on time	Percentage completed on time
2018-19	221	140	144	65.2%
2019-20	227	128	134	59.0%
2020-21 to date	85	43	71	83.5%

18. Numbers of enquiries received, their complexity, and their scope are increasing year on year and while this trend was already noticeable, the impact of the General Data Protection Regulation which came into force on 25 May 2018 accelerated this trend. Requests can be extremely time consuming as they need to be carefully processed to ensure that all relevant information is identified, any redactions and exemptions are appropriately applied and checked by the relevant social work contact. Similar to the FOI requests it is very difficult to calculate the actual time taken to complete each request. For these reasons, it is increasingly difficult to complete requests within the statutory timescale with the current allocated resources and processes.

19. CIMU are working with colleagues in IT to develop a system to more effectively manage the SAR and other information sharing requests (for example requests to share data with other organisations) which will enable the requests to be processed more efficiently and keep track of progress.

Impact of Covid-19 on requests

20. Covid-19 has impacted the Council's ability to respond to requests for information. This is because staff across the Council have been focussed on delivering and supporting the necessary front-line services to support the response to the pandemic, with a consequential delay in providing the necessary input into

responses. The demand for technical and professional advice on information legislation matters has also increased due to the processing being undertaken to support the Covid-19.

Key Data Protection compliance actions

21. Mandatory training for staff – all staff are required to complete mandatory training modules on FOI/EIR and on DP. These modules are required to be completed every two years so staff knowledge and awareness remains current. While the main route for completing this training is through eLearning, the training is made available in other formats to meet staff needs and requirements.
22. Advice, guidance and policy – The Information Governance section of OurSpace (accessible from the front page of OurSpace from the 'Keep Data Safe' button) provides a range of guidance for all staff on FOI, EIR, and DP covering topics like consent, information sharing, and requests for information. The information governance and information access staff in CIMU are available to provide advice on specific matters that arise.
23. Information Asset Register – this formed an integral part of the project to implement the changes GDPR brought in 2018 and now details the information the Council holds across the authority. It is a living document and is subject to regular review including when there are changes in service provision and delivery for example in-sourcing or out-sourcing of services.
24. Privacy Notices are in place and accessible on the Council's website (www.worcestershire.gov.uk/privacy) providing information about the processing of personal data across Council services, including the processing currently being undertaken in response to the Covid-19 pandemic.
25. Joint Impact Assessments – a streamlined and innovative approach has been taken to assist staff to complete necessary Data Protection Impact Assessments (DPIAs) to ensure that data protection is built into the design of processes, systems and improvements. As the DPIA is only one of several impact assessments that need to be completed, a cross-discipline group formed under the Corporate Information Governance Board (CIGB) worked with IT to develop a system that enables staff to complete the screenings and assessments to identify any impact on data protection, equality, health and environmental sustainability in one place. This ensures consistency of completion, reduces the time taken by officers to complete the assessments, and minimises confusion from multiple processes to follow for separate assessments.

Purpose of the Meeting

The Board is asked to:

- consider and comment on the detailed report and determine whether any further information or scrutiny is required at this time; and
- determine whether a regular annual report to the Board on information legislation compliance would be of value.

Contact Points

Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer, in this case the Assistant Director for Legal and Governance there are no background papers relating to the subject matter of this report:

[All agendas and minutes are available on the Council's website here.](#)