



POLICY AND RESOURCES SCRUTINY COMMITTEE – 14TH APRIL 2015

SUBJECT: INFORMATION GOVERNANCE 2014

**REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES AND SECTION 151
OFFICER**

1. PURPOSE OF REPORT

- 1.1 To inform Members of progress in assuring that the governance of information across the Council is effective during the calendar year 2014.
- 1.2 To inform Members about requests for information received under the Freedom of Information Act 2000 (FOI), and other associated legislation during 2014.

2. SUMMARY

- 2.1 As services become leaner and look for more efficient ways of working, information risk becomes greater and opportunities to make better use of the Council's information need to be seized. This is compounded by the potential monetary penalties for breaching the Data Protection Act, currently half a million pounds, but set to double with implementation of a new European Data Protection Directive.
- 2.2 The Council's Information Governance Work Programme resulted in a number of achievements during 2014, including implementation of a process to manage information risk and a successful ESF funded project to improve information sharing across the Caerphilly Local Service Board (LSB).
- 2.3 The demands of Freedom of Information and associated information rights legislation are an ongoing challenge, as numbers of requests increase year on year, and action has been taken to deal with these requests more efficiently.

3. LINKS TO STRATEGY

- 3.1 Information governance is a key part of the Council's corporate governance and is reflected in the Annual Governance Statement section of the Statement of Accounts. Effective governance of the Council's information underpins all Council activities, including the Council's Improvement Objectives and Community Strategy.

4. THE REPORT

Background

- 4.1 As services become leaner and look for more efficient ways of working, information risk becomes greater. Efficiencies gleaned from new technology, outsourcing functions to third parties, and sharing information with partners needs good information governance structures

to mitigate risk of data protection breaches and poor quality information leading to bad decision-making. The potential monetary penalties for breaching the Data Protection Act are currently half a million pounds, but are set to double with implementation of a new European Data Protection Directive, and reputational damage and loss of trust in the organisation would also be inevitable. The changes needed by the Council to meet current financial challenges also present opportunities to make better use of the Council's information through more streamlined records management and greater openness of non-confidential information across the organisation.

- 4.2 The Council's Information Governance Work Programme builds on previous work to comply with recommendations of Price Waterhouse Cooper and Wales Audit Office as part of national audits on governance of information in local authorities during 2011 and 2012. The programme also consolidates earlier work to implement Freedom of Information, Data Protection and associated information legislation over the last decade. The Programme focuses efforts of Information Governance Stewards Council-wide on mitigating information risks identified as part of the process to support the Senior Information Risk Owner (SIRO), who is the Head of ICT and Customer Services.

Information Governance Progress

- 4.3 The ESF Sharing Personal Information Project, managed on behalf of the Caerphilly LSB, successfully achieved its objectives, as evidenced by an external evaluation in Nov 2014. These included development of Wales Accord for Sharing Personal Information (WASPI) Information Sharing Protocols in six key areas, including domestic abuse, missing children, Team Around the Family and for individuals at risk of not being in employment, education or training (NEET). Elearning supplemented with Apps for use on mobile devices and printed leaflets, calendars and posters have been well received by staff, improving knowledge across LSB organisations in when and how to share information. Work is ongoing to offer this training framework across Wales to support WASPI. The Council's Leader delivered a presentation to close the project's multi-agency information sharing conference in November 2014, and representatives from all sectors welcomed the support provided by the project in making difficult decisions about how to share information. Members of the former Project Steering Group are continuing to progress this work across the LSB, and are exploring possibilities for regional working across the former Gwent area in future now that the project has ended.
- 4.4 Heads of Service are tasked with reporting regularly to the SIRO on information risk levels in their service area, to comply with the Council's Information Risk Policy and enable assurance of the Council's information risk in the Annual Governance Statement. Awareness raising sessions have continued to be delivered to Senior Management Teams by Corporate Information Governance Unit (CIGU) and the Unit arranged for the National Archives (TNA) to facilitate training for all Heads of Service at Ty Penallta in January 2015 on management of information risk. The Council also hosted training for SIROs from organisations across South and West Wales by TNA on the same day. The events received good feedback, but timely submission of information risk updates is still patchy across service areas, and the SIRO will be regularly updating Corporate Governance Panel on returns received. Therefore the information risk process is being reviewed with assistance from the Cabinet Office SIRO Policy Lead to make sure it is as streamlined as possible, whilst still providing assurance that risk is low and enabling issues to be identified that need to be addressed.
- 4.5 Reports to CIGU of incidents that may have breached the Data Protection Act have increased, with 9 potential breaches reported in 2014. However this is regarded as a positive change, as it evidences that the ongoing training programme has raised staff awareness of the need to notify CIGU so that an investigation can be carried out and mitigation measures implemented. Of the 9 incidents notified last year, 7 were found to be breaches of the Act and measures were put in place to mitigate risk and reduce likelihood of a repeat in future. During 2014, the Council signed a Data Protection Undertaking as a result of two data protection breaches relating to use of CCTV and surveillance that were voluntarily notified to the ICO in 2013. The Council committed to following the ICO's Employment Practices Code, and Policy and Resources Scrutiny Committee were advised on 20 January 2015 that for the foreseeable

future the review of the current arrangements will be held in abeyance and the use of employee surveillance will remain on hold. The Council also decided to conduct an audit of CCTV usage Council-wide, which is currently ongoing.

- 4.6 The Information Governance Training Programme has achieved good results. 99.5% of computer-using staff passed the Protecting Information elearning course during 2013-2014, and it was re-launched this year as a mandatory annual course to mark European Data Protection Day. The Information Governance Training Officer came into post during 2014 on a one-year fixed-term contract to deliver workshops tailored to service needs. At the end of February 2015 staff from across the majority of the Council's services had been trained in the following key subjects:

Course	Computer users	Non computer users
Protecting Information (3 hours)	769	136
Freedom of Information (1.5 hours)	189	
CCTV and Data Protection (1.5 hours)	50	
Full day records management (full day)	27	

Additional guidance for line managers to train non-computer users has also been issued to supplement the Data Protection Policy and leaflets sent to all staff with the Code of Conduct in 2013. Over the final two months of the workshop element of the Training Programme, the focus will be on delivering short courses on records management and ensuring all staff that have expressed an interest in training have an opportunity to attend. Members' training has continued, with 3 sessions during 2014 for those Members who could not attend the two sessions delivered in 2013. This training has now been made a mandatory requirement each year, and thirty six Members were trained on 2 March 2015. One more session will be arranged to give remaining Members an opportunity to attend. Non-attendance could result in a referral to the Standards Committee as a potential breach of the Member's Code of Conduct.

- 4.7 Improvements to the Council's practices inline with the Records Management Policy continue, to ensure compliance with the Lord Chancellor's Code of Practice on Section 46 of the Freedom of Information Act. The Council's Information Asset Register continues to be updated and linked with information risk assessments so that decisions can be made on whether changes to access permissions and storage requirements are needed to address key risk areas. Vital records identified in the Register have been incorporated into the Council's business continuity planning process. Practical guidance on managing email has also been issued. Accreditation of service areas with the British Standard on legal admissibility of electronic information (BS10008) continues, with HR and Building Cleaning currently in the process of being accredited. Services currently holding the standard include:

- Council Tax
- Public Sector Housing and Housing Strategy and Performance
- Housing Benefits
- Engineering Projects Group
- Learning, Education and Inclusion
- Social Services Brokerage
- Social Services Accountancy Team

Guidance on managing records that relate to European funded projects to comply with Wales European Funding Office (WEFO) requirements has been issued, and work is ongoing to manage storage of those records until WEFO authorises destruction.

- 4.8 Work at Glamorgan and Gwent Archives continues to safeguard and make available historically important information to discharge the Council's duty under S.60 of the Local Government (Wales) Act 1994, and Corporate Information Governance Unit attends quarterly Joint Committee meetings to support the Council's Members. Council records deposited with the archives services are actively used by the public and Council officers, for example in litigation cases, land ownership queries or determining origins of older joint arrangements with other organisations.

4.9 FOI and Environmental Information Regulations (EIR) requests continue to increase, and improving the Council's rate of response within 20 working days was highlighted as an action in the Annual Governance Statement for 2014-2015. Performance is monitored quarterly so that action can be taken at an early stage if compliance rates fall below target. Additional actions have included:

- Mandatory briefings for all Senior Management Teams;
- Reduction of internal deadline for requests from 15 to 12 working days;
- Requirement introduced to notify CIGU within 5 working days whether all information is held by the service area, so that other services can be notified promptly;
- Chief Executive is notified when requests pass the internal compliance date, and sends reminders direct to service areas;
- Staff continue to be trained on FOI requirements as part of the Information Governance Training Programme;
- Review of the Council's Publications Scheme to make as much information proactively available as possible.

The following section gives further detail on information requests received during the 2014 calendar year.

Requests for information during 2014

4.10 The total number of information requests covered by FOI and EIR, as well as Data Protection Subject Access Requests (DPA SARs), received during 2014 is illustrated in the table below, alongside percentage increase on the previous year.

	2013	2014	% increase
FOI/EIR information requests	1057	1081	2.3%
DPA Subject Access Requests (SAR)	84	96*	14.2%

*An additional 37 people requested more information on making a SAR application, but did not go on to formally submit the request.

Corporate Finance, Public Protection and People Management received the most FOI/EIR requests, and Social Services and People Management received the most SAR requests during this period. See appendices 1 and 2 for more detailed information on numbers of requests for each Service Area across each quarter of 2014.

In addition, Corporate Information Governance Unit also dealt with 16 information request appeals (detailed in paragraph 4.14), investigated 9 potential data protection breaches and dealt with over 100 requests for data protection advice including advice on new ways of working. The Unit also part-seconded 3 members of staff to the ESF Sharing Personal Information Project.

4.11 Percentage of requests processed in compliance with legal timescales is illustrated in the table below, and further details can be found in Appendices 3 and 4:

	2013	2014
FOI/EIR information requests	72%	76%
DPA Subject Access Requests (SAR)	62%	80%

The increase in compliance rate is reflective of the smaller increase in request numbers in 2014 compared to 2013 as well as extensive efforts to raise awareness of the need to comply with statutory deadlines across the Council. The Council still needs to improve to meet the Information Commissioner's target of 85% of FOI requests answered within 20 working days, and with request volumes increasing every year, this is an on-going challenge.

- 4.12 FOI/EIR applicants do not have to disclose who they are, but from information we have gathered we know that numbers of requests made by AMs, campaign groups, trade unions and commercial organisations rose again, but requests from Councillors, MPs, and press decreased, although freelance journalists may be making requests as private individuals. Increasing numbers of SARs are partly caused by requests for access to CCTV images, and has prompted a review into extent of CCTV usage across the Council, which will be reported back to Corporate Governance Panel in the coming months.
- 4.13 All information was provided for 823 requests (77%), representing a 3% increase on 2013. A further 87 requests received part of the information requested. 46 requests were refused as they would have exceeded the cost threshold to answer and 2 were refused because they were repeated requests. The remaining refused requests were due to application of exemptions determined by the Council's Exemption Panel, mainly due to presence of personal information or due to information being already available, for example through committee reports. The number of requests refused due to information already being available has decreased from 73 in 2013 to 37 in 2014 mainly due to information about public health funerals being made available on the Council's website, causing researchers to search the website rather than send in individual requests, which leads to less demand on staff. Information relating to National Non-Domestic Rates (NNDR) will also be put on the Council website soon to reduce demand on Corporate Finance staff of dealing with frequent individual requests. See Appendices 5 and 6 for further detail.
- 4.14 The number of requests received for internal appeal reduced from 24 to 11 in 2014. Internal appeals are investigated by a senior officer who was not involved in the original request. Of the cases that are now resolved, the original decision was upheld by the Council in 5 cases, and partly upheld in 3 further cases with some additional information provided at internal appeal stage. The number of requests referred to the Information Commissioner increased from 3 to 5 during this period, although three of these related to requests handled by the Council during 2013. Two of the applicants were not happy with the outcome of the internal appeal and contacted the Information Commissioner's Office (ICO) requesting an investigation. In addition, a further 3 applicants contacted the ICO without going through the internal appeal process. As a result of ICO investigations, 3 appeals were upheld and one partially upheld, all of which led to further information being supplied. The remaining appeal was not upheld, but the ICO investigation did identify delays in the Council's handling of the request.

5. EQUALITIES IMPLICATIONS

- 5.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the categories identified in Section 6 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report. The Council provides FOI information in the format that the applicant requests, and this combined with Welsh language responses to FOI requests made in Welsh contributes to compliance with the Council's Strategic Equality Objective 4 - Communication Access.

6. FINANCIAL IMPLICATIONS

- 6.1 Financial implications may result from the programme of improvements necessary to assure the Council's information during this period of significant Council change.

7. PERSONNEL IMPLICATIONS

7.1 The Information Governance Work Programme has implications on the workloads of staff.

8. CONSULTATIONS

8.1 Consultations have taken place and are reflected in this report.

9. RECOMMENDATIONS

9.1 It is recommended that the contents of the report be noted.

10. REASONS FOR THE RECOMMENDATIONS

10.1 To be advised of the ongoing work to assure information governance arrangements across the Council and of increasing demands being placed on the organisation to meet legal obligations to respond to information requests.

11. STATUTORY POWER

11.1 Freedom of Information Act 2000.

11.2 Environmental Information Regulations 2004.

11.2 Data Protection Act 1998.

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Appendices:

Appendix 1 FOI/EIR requests by Directorate/Service Area
Appendix 2 DPA SAR requests by Directorate/Service Area
Appendix 3 FOI/EIR - Timeliness
Appendix 4 DPA SAR - Timeliness
Appendix 5 FOI/EIR - Outcomes
Appendix 6 FOI/EIR - Use of Exemptions (FOI) and Exceptions (EIR)