



POLICY AND RESOURCES SCRUTINY COMMITTEE - 20TH APRIL 2010

**SUBJECT: FREEDOM OF INFORMATION / ENVIRONMENTAL INFORMATION /
DATA PROTECTION REQUESTS 1 JAN – 31 DEC 2009**

REPORT BY: DIRECTOR OF CORPORATE SERVICES

1. PURPOSE OF REPORT

- 1.1 To inform Members of demands placed on the Authority through requests for information received under the Freedom of Information Act 2000 (FOI), Environmental Information Regulations Act 2004 (EIR) and Subject Access Request (SARs) made under the Data Protection Act 1998 (DPA), and to provide high-level analysis of trends and performance in dealing with the requests.

2. SUMMARY

- 2.1 The Authority continues to experience a significant increase in requests for information under FOI, EIR and DPA. Despite this increase in workload the Authority continues to maintain a similar level of compliance in dealing with the requests when compared to previous years. The new format of publishing statistics of performance under FOI/EIR/DPA in this report brings this Authority in line with the Central Government model for publication

3. LINKS TO STRATEGY

- 3.1 The Improvement Plan identifies a number of values that guide the operation of the authority. One of the sets of values covers openness, integrity and accountability. The Council's work in relation to FOI and EIR contributes to this area by making otherwise unpublished information available to residents of the county borough and beyond. The DPA contributes to this area by protecting the personal data that the public entrusts to the Council and by giving individuals the right to access their own personal information, known as a Subject Access Request (SAR).

4. THE REPORT

- 4.1 The Information Unit has had responsibility for guiding this area of work since 2004, reporting to the Head of Information, Communications, Technology and Property within the Directorate of Corporate Services since May 2007.
- 4.2 The Authority continues to see an increase in the number of requests for information being made under this legislation. For the period 1 January 2009 to 31st December 2009 the Council received 593 requests under FOI/EIR, approximately 35 more than were received during 2008. In the same period, 59 SARs were made under the DPA – 9 more than were received during 2008. However, during 2009, 15 SARs were either subsequently withdrawn or the necessary paperwork/identification/payment was not returned.

The majority of requests are directed at single areas of the organisation, whilst the remaining requests require cross directorate support to collate information – for breakdown, see Appendices 1 and 2.

- 4.3 Total number of information requests received since January 2005 are detailed in the table below and compare a count of all requests that the Information Unit have advised on since 2005, including activities covered by the DPA.

| Year | No. of FOI/EIR/DPA requests | Percentage increase on previous year |
|------|-----------------------------|--------------------------------------|
| 2005 | 394 | N/a |
| 2006 | 486 | 23% |
| 2007 | 500 | 3% |
| 2008 | 634 | 27% |
| 2009 | 715 | 13% |

The receipt of requests is a relatively constant demand, with no seasonal variations evident. At any one time the Information Unit can be dealing with in excess of 50 active requests, although this can vary day to day.

- 4.4 Compliance – see Appendices 3 and 4:

- 78% of FOI/EIR requests received during 2009 were answered within the legal compliance time of 20 working days, compared to 82% in 2008, which is below our corporate target of a 90% compliance rate.
- 66% of SARs received during 2009 were answered within the legal compliance time of 40 calendar days, which is below our corporate target of 80% compliance rate

The improved compliance with the DPA deadline of 40 calendar days through the year can be attributed to the nature of the requests e.g. a request for copies of minutes of strategy meetings, is comparatively straight forward to process, as opposed to the requests which involve multiple files, sometimes going back to the childhood of data subjects who are now adults.

The principal reasons for the failure to meet the compliance deadlines for FOI/EIR requests are similar to those reported previously i.e. complex requests that can require cross directorate support and/or require extensive third party consultation, but fall under the fees threshold. As stated above, the reasons for failing to meet the compliance deadlines for SARs is down to the volume and sensitive nature of information involved in some requests.

The continuing increase in the number of requests received also has a bearing on compliance within the statutory deadlines.

- 4.5 Type of requestor – FOI/EIR applicants have the right to remain anonymous, so any attempt to categorise them by type of requestor will never be completely accurate. However, below is a guide to the breakdown of requests received from each class of applicant, where they have declared if they are a journalist, MP/AM, etc.

| Class | Number of Requests |
|-----------------|--------------------|
| MP/AM | 67 |
| Councillors | 9 |
| Researcher | 21 |
| Campaign Group | 32 |
| Commercial | 77 |
| Press | 100 |
| Private/unknown | 287 |

When compared with 2008, the breakdown over the type of requestor is very similar, however, there has been a small reduction in the number of requests identifiable as being made by researchers (-6%) and a small increase in the number of requests received from AM/MP (+3%) and Commercial (+2%).

4.6 Recurring themes include:

- Member expenses
- Complainant details
- Taxi Information e.g. licensing, contracts
- Cooling Towers
- Staffing information e.g. salaries, contact details, sickness
- Electoral Reg.
- Housing Benefits

4.7 Outcome of requests – for 2009, the number of FOI/EIR requests for which we provided all information was 79%, while 17% used a legal exemption to withhold all or part of the information requested.

4.8 In 2009, 85 requests for information were considered by Exemption Panel and of those 46 resulted in an exemption on disclosure, either wholly or partly. The exemptions applied by the Exemption Panel during 2009 are detailed in Appendix 6.

4.9 Fees – in 2009, the Council refused, or partly refused, 34 requests because the estimated amount of work to answer the request would take more than 18 hours of staff time, in accordance with the FOI and DPA (Appropriate Limits and Fees) Regulations 2004.

4.10 Appeals – during 2009, a total of 8 requests for Internal Appeal have been received. The Chief Executive upheld the original decision made by CCBC in 4 of these appeals, and due to developments, and the passage of time, consent was given by the third party to release information which had previously been refused in relation to one appeal. The remaining 3 internal appeals are currently being considered.

During the same period, 3 appeals have been made to the Information Commissioner in respect of exemptions applied by the Authority. Two cases have been completed and the third is ongoing. Both of the completed cases were reviewed by CCBC, and the third is currently under review by CCBC. As a result of the reviews of the two completed cases, CCBC found that due to a change in circumstances and the passage of time, the reasons for non-disclosure no longer applied and the information has been released and the cases closed without the need for a decision by the ICO. The ICO was provided with an explanation as to why and how the decision to disclose was made, and the appeals have been closed requiring no action from them.

4.11 In addition to processing requests for information made under FOI, EIR and SARs under DPA, the Information Unit also provides advice and assistance to Directorates how to protect personal data, including safe data sharing with internal and external organisations, and effective management of records.

5. FINANCIAL IMPLICATIONS

5.1 No direct financial implications.

6. PERSONNEL IMPLICATIONS

6.1 No direct personnel implications.

7. CONSULTATIONS

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

8. RECOMMENDATIONS

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

9. REASONS FOR THE RECOMMENDATIONS

9.1 To be advised of the increasing demands being placed on the organisation to meet its obligations under the Freedom of Information Act 2000, Environmental Information Regulations 2004 and Data Protection Act 1998.

10. STATUTORY POWER

10.1 Freedom of Information Act 2000

10.2 Environmental Information Regulations 2004

10.3 Data Protection Act 1998

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Background Papers: None

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)