



POLICY AND RESOURCES SCRUTINY COMMITTEE - 5TH OCTOBER 2010

**SUBJECT: FREEDOM OF INFORMATION / ENVIRONMENTAL INFORMATION /
DATA PROTECTION REQUESTS 1 JAN – 30 JUNE 2010**

REPORT BY: DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To inform members of the 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.

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 The Council's work in relation to FOI and EIR contributes to this area by making otherwise unpublished information available to residents of the county borough and beyond.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 Authority continues to see an increase in the number of requests for information being made under this legislation. During 2009, the Council received 593 requests under FOI/EIR, approximately 35 more than were received during 2008. In the same year, 59 SARs were made under the DPA – 9 more than were received during 2008.

During the period covered in this report i.e. 1st January – 30th June 2010, we have received 345 requests under FOI/EIR (1 of which was later withdrawn), compared to 293 during the same period in 2009, representing an 18% increase to date.

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.

4.2 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%
2010	360 (up to 30 th June 2010)	ongoing

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 70 active requests, although this can vary day to day.

4.3 Compliance – see Appendices 3 and 4:

- 75% of FOI/EIR requests received during the first six months of 2010 were answered within the legal compliance time of 20 working days, compared to 78% during the same period in 2009, which is below our corporate target of a 90% compliance rate.
- 73% of SARs received during the first six months of 2010 were answered within the legal compliance time of 40 calendar days, compared to 50% during the same period in 2009, 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 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.

4.4 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	16
Councillors	4
Researcher	13
Campaign Group	27
Commercial	42
Press	54
Private/unknown	184
Trade Union	5

4.5 Recurring themes include:

- Referral to Treasury Solicitor where persons have died with no known next of kin
- Complainant details
- Council Budget/Expenditure
- NNDR
- Staffing information e.g. salaries, contact details, sickness levels
- Dog warden service/stray dogs

4.6 Outcome of requests – for the first half of 2010, the number of FOI/EIR requests for which we provided all information was 263 (76.5%), we legally refused 67 requests (19.5%) for the reasons outlined below and the remaining 14 requests (4%) remain open at the time of collating this information.

Information Not Held – we refused 5 requests in whole and 4 in part as the Council did not hold the information requested. Where possible we provided advice and assistance to the applicant by suggesting other organisations that may hold the information required.

Exemptions – at Exemption Panel we considered 47 requests for information, which resulted in an exemption, either wholly or partly, being applied to 28 requests. The exemptions applied by the Exemption Panel during the first half of 2010 are detailed in Appendix 6.

Fees – we refused, either wholly or partly, 30 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.

4.7 Appeals – during the first 6 months of 2010, a total of 3 requests for Internal Appeal were received. The Chief Executive upheld the original decision to apply exemptions made by CCBC in all of these appeals, however, it was also acknowledged that the authority did not meet its obligations in relation to the compliance times set for answering requests under S.10 of the Freedom of Information Act for 2 of these requests.

During the same period, 1 appeal was made to the Information Commissioner (ICO) in respect of exemption applied by the Authority, and the Decision Notice has been issued by the ICO. The ICO found that the exemption was correctly applied, but it also found that the Authority had failed to undertake the internal review within 40 working days of receipt of the request and while the original request was responded to within 20 working days, we had failed to explain the reason for applying the exemption to the applicant within 20 working days of receipt of the request. Working practices around notifying applicants of any exemptions applying to information sought and considering internal appeals have been reviewed in light of this Decision Notice.

4.8 In addition to processing requests for information made under FOI, EIR and SARs under DPA, the Information Unit also provides training, advice and assistance to Directorates on 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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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)