POLICY AND RESOURCES SCRUTINY COMMITTEE - 4TH JUNE 2013

SUBJECT: **INFORMATION GOVERNANCE**

REPORT BY: **ACTING DIRECTOR OF CORPORATE SERVICES**

1. PURPOSE OF REPORT

1.1 To inform members of progress in assuring that the governance of information across the Council is effective.

1.2 To inform members about requests for information received under the Freedom of Information Act 2000 (FOI), and other associated legislation.

2. SUMMARY

2.1 Significant progress is being made on the governance of Council information as a whole, including on handling requests for information. However the information governance work programme must continue to achieve benefits in order to ensure the Council's information remains protected and useable.

3. LINKS TO STRATEGY

3.1 Information governance is connected to the Council's corporate governance and the Annual Governance Statement which is contained in 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 Since 2007 reports have been submitted to Policy and Resources Scrutiny Committee focusing on the Council's performance in handling requests made under FOI, Environmental Information Regulations 2004 (EIR), and Subject Access Requests (SARs) made under the Data Protection Act 1998 (DPA). However significant progress is being made on the governance of Council information as a whole, including on handling requests for information, and this is an opportune time to brief the Committee on the full extent of information governance achievements.

4.2 Two reports have been presented to Audit Committee from Price Waterhouse Cooper (PWC) and Wales Audit Office (WAO) on governance of Council information since 2011, as part of reviews of information governance across the public sector in Wales. Both organisations reported that the Council's approach to information governance is generally sound, with PWC acknowledging that the 'strong tone from the top' on information governance means that this Council has a more mature approach to its information governance arrangements than many

other public bodies in Wales. Recommendations were made by both reports for further improvement in order to avoid any undermining of the Council's Information Strategy.

<u>Information Governance Progress</u>

4.3 One recommendation was to establish a more representative information governance group, and in response an Information Governance Project Team was established, chaired by the Head of ICT Services, who is also the Council's Data Protection Officer and Senior Information Risk Owner (SIRO). Corporate Information Governance Unit (CIGU), which sits within ICT Services, advises on and administers the work of the Team. Four Directorate Information Governance Stewards were also nominated to the Team, alongside representatives from IT Security, HR, Facilities, Internal Audit, and Legal Services.

4.4 The goal for the Team is to 'embed effective information governance into the organisation's day-to-day work, to ensure the right information is well managed, secure, and promotes effectiveness and efficiencies in the Council's work'. The Team's work is directed by an Information Governance Programme Schedule, made-up of the PWC and WAO recommendations, and significant progress has been made to date. For example:

- Information Governance Stewards have begun the weighty task of identifying the Council's information assets to enable better management of those crucial Council assets, including using information to best effect and maintaining information safety.

- A strategy for coordinating external reviews/audits has been formulated to minimise duplication and focus on higher risk areas.

- A Data Protection Breach Reporting Procedure has been launched to ensure any issues are resolved within minimal risk, lessons can be learned corporately, and corrective action taken if required.

- A Corporate Records Retention and Disposal Policy has been launched, including details of confidential waste procedures and guidance on retention periods for specific types of information. More detailed document retention periods have also been defined for Environment and Social Services Directorates.

- The Senior Information Risk Owner (SIRO) position has been allocated to the Head of ICT Services, with responsibility for reporting annually on information risk across the organisation.

- A review has been undertaken of membership of the IGPT to ensure all areas of risk, including physical access and human resources, are covered.

- The corporate training sessions on FOI/EIR and Data Protection have been supplemented with workshops on specific aspects of dealing with these requests, such as handling Subject Access Requests within HR. Information Governance has previously been included in the Members Development Programme, and is due to be delivered again in September 2013.

- Review of back-up electronic information has been undertaken, to ensure sufficient disaster protection arrangements are in place.

- Changes have been made to the FOI process to ensure improvements in quality of information released and in timeliness of answering requests. This has been supplemented with workshops with all FOI points of contact to further improve the process and continue training and awareness.

- A successful bid for European Social Fund monies on behalf of the Caerphilly Local Service Board means that a project is ongoing to facilitate the safe and legal sharing of personal information across the Council, Gwent Police, Aneurin Bevan Health Board and

the voluntary sector, with the aim of enhancing efficiencies and effectiveness of service delivery for the public. The project involves development of information sharing protocols under the Wales Accord for the Sharing of Personal Information (WASPI) and multi-agency training.

4.5 Upcoming work on the Information Governance Programme includes:

- An elearning package called 'Protecting Information' is to be launched to staff. The 1.5 hour training covers all aspects of using information securely, including working inside and outside the office, sharing information, roles and responsibilities, and includes an assessment that must be passed and will be stored on each employee's HR record.

- An information assurance process has been formulated for use by the SIRO in ensuring that information risk has been fully considered and managed across the organisation. The process is under consideration by Senior Management. Once agreed this will be deployed across the organisation.

- A Corporate Records Management Policy is due to be launched as part of Information Governance Communications Plan, to guide all records management activity across the organisation.

Requests for information during 2012

4.6 The total number of information requests covered by FOI and EIR received during 2012 was 858, an increase of 3.7% on 2011, with Corporate Finance, People Management and Social Services receiving the most requests. The total number of SARs under the DPA during 2012 was 82 compared to 71 in 2011, with Social Services and People Management again receiving the most requests. In addition a further 44 people requested more information on making a SAR application, but did not go on to formally submit the request for information. These increases continue the upward trend in receipt of requests year-on-year, which undoubtedly reflects growing public awareness of their rights, and increases the pressure on organisations to handle information correctly and ensure its information governance is appropriate. See appendices 1 and 2 for more detailed information on numbers of request for each Service Area across each quarter of 2012.

4.7 During 2012, 77% of FOI/EIR requests were processed in compliance with legal timescales compared to 84% in 2011, and 70% of SARs were processed in compliance with legal timescales compared to 87% in 2011. Further detail can be found in Appendices 3 and 4. The decrease in compliance rate is disappointing, and there a number of reasons for this:

- Increased complexity of information being requested under FOI/EIR
- Continual increase in the number of FOI/EIR requests received
- Difficulty in achieving approval from Heads of Service for release of final responses to FOI/EIR requests, in accordance with the new process implemented in 2011. Some service areas are addressing this with allocation of deputies for approval purposes.
- Increase in the number of SARs being received from members of staff
- Volume of information requested by SAR applicants, for example everything since the individual started working for the Authority
- In addition to the FOI/EIR/SAR requests processed, Corporate Information Governance Unit (CIGU) also dealt with 195 requests from the organisation for data protection advice in 2012 compared to 135 in 2011, and 44 potential SAR request in 2012 compared to 32 in 2011, during a period when the Unit was reduced from 2.8 Full Time Equivalent members of staff to 2 due to maternity leave.

4.8 The number of requests received from AMs and MPs has more than doubled from 30 in 2011 to 63 in 2012, and there has been an increase in requests from commercial organisations from 165 in 2011 to 234 in 2012. There has been a reduction in numbers of requests received from the Press from 224 in 2011 to 174 in 2012. Recurring themes are similar to previous years, for example council budgets/expenditure, staffing and empty properties,

although in 2012 there has been a number of request relating to asbestos at Cwmcarn High School.

4.9   With regard to outcome of requests, all information was provided for 559 requests out of 858, and a further 122 requests received part of the information requested. 118 requests were refused in full, of which 51 requests were refused as they would have exceeded the cost threshold to answer, and 67 were refused due to application of an exemption (see Appendices 5 and 6 for further detail). Notably during 2012 three requests were refused for either being vexatious or repeated. Both of these reasons for refusal are always considered, but it is unusual for them to be legally applicable. The vexatious request related to a detailed breakdown of school resources including available teaching staff, chairs, tables, books, pencils, pens, paper, toilet paper, soap, First Aid equipment, culinary equipment, and any other item considered as a resource that could be prejudiced by admitting additional pupils, together with receipts of all purchases. The repeated request involved an applicant continually asking for the same information, including information that is not held by the authority.

A number of exemptions were used more this year than in 2011, including 74 requests were refused as the information was accessible by other means, for example via the website or already published in some other form (e.g. Treasury Solicitor requests), and 21 refused for law enforcement reasons, for example requests for details of empty properties.

4.10   During 2012, 15 requests for internal appeals were received, and in 7 of these cases, the original decision was upheld by the Head of Legal Services. Out of these 7 internal appeals, 3 of the applicants were not happy with the decision and contacted the ICO (Information Commissioners Office) requesting an investigation into our refusal. The ICO agreed that in all 3 cases, the exemptions/refusals had been correctly applied. However, we were criticised in 1 case where we had issued a fees refusal as we had failed to provide "advice and assistance" as required by the legislation. Following the ICO decision, 1 applicant still disagreed with the decisions and took their case to the Information Tribunal who also upheld our original decision. The remaining 8 requests for internal appeal are ongoing.

5.   EQUALITIES IMPLICATIONS

5.1   There are no specific equalities implications arising as a result of this report.

6.   FINANCIAL IMPLICATIONS

6.1   Financial implications may result from the improvements necessary to assure the Councils information.

7.   PERSONNEL IMPLICATIONS

7.1   The Information Governance Work Programme will have implications on staff workload.

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 improve information governance arrangements across the Council, and of 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.

11. STATUTORY POWER

Freedom of Information Act 2000
Environmental Information Regulations 2004
Data Protection Act 1998

Author: Joanne Jones, Corporate Information Governance Manager and Bev Griffiths, Information Officer
Consultees: Nicole Scammell, Acting Director of Corporate Services
                 Nigel Barnett, Acting Chief Executive
                 Cllr Keith Reynolds, Deputy Leader and Cabinet Member for Corporate Services
                 Phil Evans, Head of Information, Communication and Technology Services
                 Dan Perkins, Head of Legal and Democratic Services
                 Gail Williams, Monitoring Officer/Principal Solicitor
                 Corporate Services Senior Management Team
                 Information Governance Project Team
                 Steve Pugh, Corporate Communications Manager
                 Carl Evans, Assistant Information Officer

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)