



Committee and Date

Audit Committee

23rd November 2023

10:00am

Item

Public



Freedom of Information (FOI) Management Update

Responsible Officer:	Tim Collard		
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Cabinet Member (Portfolio Holder):	Lezley Picton, Leader of the Council Brian Williams, Chairman of the Audit Committee Gwilym Butler		

1. Synopsis

This report summarises the Council’s compliance with the Freedom of Information Act 2000 (FOIA) and provides an update on Information Commissioner (ICO) enforcement notice received in April 2023.

2. Executive Summary

- 2.1. During the September meeting, Audit Committee members requested a further management update regarding compliance with the ICO enforcement notice. This report provides members with an update of work undertaken by the Information Governance team and officers across the Council including Executive Directors to ensure it is meeting its legal obligations in respect of the FOIA.
- 2.2. The Information Governance Team recruitment has taken place and further recruitment will be undertaken to improve the Council’s compliance with the FOIA.
- 2.3. All overdue FOIA cases from 2022 were cleared by the end of June 2023 and the average 20-day compliance rate has increased from 47% in 2022 to 78% between May to the end of September 2023. Importantly, there has been a sustained month by month improvement with September 2023 recording an 82% response rate.

- 2.4. A follow up meeting with the ICO was held on 6th September 2023 to review progress on the actions set out in the published action plan. The Council was able to report the increase in compliance rates throughout 2023, clearance of the 2022 backlog of requests and that a clear plan was set out to achieve longer term improvements.
- 2.5. The Head of Policy and Governance provided a formal written response to the ICO on 26th October outlining how the Council has complied. A follow up meeting was held on 01 November with the ICO, and they provided written confirmation that the Council had fully complied with the requirements and the enforcement notice. The ICO commended the work of the Council to improve the compliance position and made particular reference to the use of the FOI PowerBi reporting as “exemplar”.

3. Decisions

- 3.1. The Committee is asked to consider and endorse, with appropriate comment the on the Council’s response to the ICO enforcement notice.

Report

4. Risk Assessment and Opportunities Appraisal

- 4.1. The consequence of failing to comply with an ICO Enforcement Notice is that the Commissioner may make written certification of this fact to the High Court pursuant to section 54 of FOIA. Upon consideration and inquiry by the High Court, the Council may be dealt with as if it had committed a contempt of court.

5. Financial Implications

- 5.1. The Information Governance function is delivered within approved budgets. The work of Information Governance contributes to improving the efficiency, effectiveness and management of the wider Council.

6. Climate Change Appraisal

- 6.1. This report does not directly make decisions on energy and fuel consumption; renewable energy generation; carbon offsetting or mitigation; or on climate change adaptation. However, the work of the Committee will look at these aspects relevant to the governance, risk management and the internal control environment.

7. Background

- 7.1. The Freedom of Information Act 2000¹ provides public access to information held by public authorities. FOIA entitles anybody to ask a local authority for any recorded information that they keep. FOIA gives us all greater access to information about how decisions are taken in government and how public services

¹ [What is the Freedom of Information Act? | ICO](#)

are developed and delivered and operates alongside the Data Protection Act 2018 and the Environmental Information Regulations 2004.

- 7.2. Public authorities are obliged to publish certain information about their activities.
- 7.3. Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.
- 7.4. Section 10(1) FOIA specifies that public authorities must respond to requests within 20 working days: "... a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following receipt."
- 7.5. Information Governance is a Council wide responsibility. The Shropshire Plan sets out the priority of improving access to information for members of the public.

A summary of the formal notice:

Taking into account the significant volume of unanswered FOI requests, their age profile including many requests subject to severe delay, and the need for significant and sustained improvement in timely FOI responses, the Commissioner considers it a proportionate regulatory step to issue an Enforcement Notice to Shropshire Council. This Notice requires the Council to comply with section 1(1) of FOIA in respect of each FOI request, where the response is outside of 20 working days at the date of this Notice, and where a permitted extension of a maximum of a further 20 working days has not been applied. It is essential that the improvements that the Council has already achieved since the initial contact with the ICO are sustained.

The notice requires:

(i) In respect of each information request where the response is outside of 20 working days as at the date of this notice, and where a permitted extension has not been applied, to comply with section 1(1)(a) of FOIA and, if information of the description specified in the request is held, either:

(ii) communicate it pursuant to section 1(1)(b) FOIA; or issue a valid refusal notice under section 17 FOIA, unless section 17(6) FOIA applies.

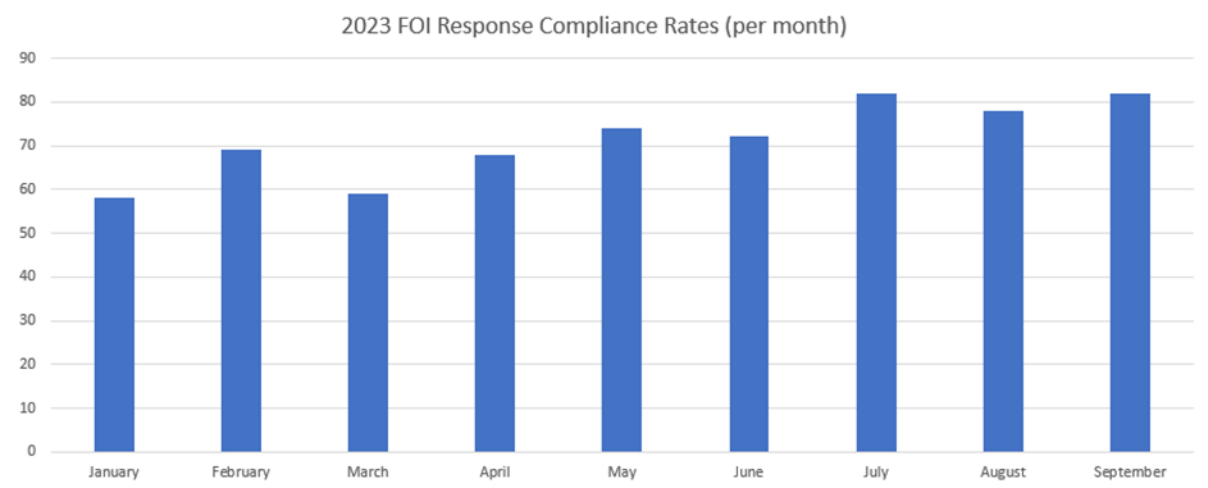
(iii) Devise and publish an action plan formalising the measures it will take to ensure it complies with its legal duties under Part 1 of FOIA to respond to information requests in a timely fashion, while also clearing its backlog of late requests as required by this notice.

8. Response to ICO enforcement notice

8.1. It is pleasing to report that as at 26 October 2023 the Council has no overdue requests. This demonstrates the Council's commitment to comply with FIOA legislation.

Ref ID	Subject	Days Open	Created Date	Resolution Target	Directorate	Service Area	Team
5648	Contracts for Adult Social Care	18	02 October 2023	30 October 2023	People	Adult Services	Adult Social C
5652	Spend on the maintenance of Walkmill Meadows in Market Drayton	18	01 October 2023	30 October 2023	Place	Homes and Communities	Outdoor Recre
5654	VAT paid to Care Providers	17	03 October 2023	31 October 2023	Resources	Resources	Finance
5680	Parking income	17	03 October 2023	01 November 2023	Place	Infrastructure	Transport
5681	Average time for planning permission	17	03 October 2023	01 November 2023	Place	Economy and Place	Planning
5665	Dogs euthanised in your area	16	04 October 2023	01 November 2023	Place	Infrastructure	Environmenta
5666	Bulky items and mattresses	16	04 October 2023	01 November 2023	Place	Infrastructure	Waste Manag
5673	Planning appeal cost awards	16	04 October 2023	02 November 2023	Place	Economy and Place	Planning
5674	Vision rehabilitation services	16	04 October 2023	02 November 2023	People	Adult Services	Adult Social C
5678	Under 18s with botulinum toxin and dermal filler procedures	14	06 October 2023	03 November 2023	Place	Homes and Communities	Trading Stand
5679	Changes of Road Names / Relocated monuments	14	06 October 2023	03 November 2023	Place	Infrastructure	Highways
5683	Children/youth centres closed	13	09 October 2023	06 November 2023	People	Children's Services	Children's Soc
5687	Direct Payments for Children and Young People aged 0 - 17	13	09 October 2023	06 November 2023	People	Children's Services	Children's Soc
5691	Recycling Centres	13	09 October 2023	07 November 2023	Place	Infrastructure	Waste Manag
5699	Zero hours contracts	12	10 October 2023	08 November 2023	Resources	Resources	HR
5694	Counterfeit and illegal vapes	11	11 October 2023	08 November 2023	Place	Homes and Communities	Trading Stand
5698	Council tax enforcement	10	12 October 2023	09 November 2023	Resources	Resources	Revs and Bens
5702	Number of disabled looked after children and care leavers	10	12 October 2023	09 November 2023	People	Children's Services	Children's Soc
5703	Spend on Translation and Interpreting Services	10	12 October 2023	09 November 2023	Resources	Resources	HR
5704	Trading Standards Report	10	12 October 2023	09 November 2023	Place	Homes and Communities	Trading Stand
5705	Concessionary bus passes issued	10	12 October 2023	09 November 2023	Place	Infrastructure	Transport
5711	Penalty Charge Notices (PCNs)	10	12 October 2023	10 November 2023	Place	Infrastructure	Highways
5707	Premises/Practitioners licenced for beauty treatments	9	13 October 2023	10 November 2023	Place	Homes and Communities	Trading Stand

8.2. All overdue FOIA cases from 2022 were cleared by the end of June 2023 and the average 20-day compliance rate has increased from 47% in 2022 to 78% between April and September 2023. Importantly, there has been a sustained month by month improvement with September 2023 recording an 82% response rate.



8.3. Actual performance for the last two years:

Year	FOI Compliance rate
2021	51%
2022	47%
2023 April to September	78%

8.4. In liaison with the ICO, an informal action plan was submitted in January 2023 to improve the response rates and clear the existing backlog of requests that are over 40 days overdue which was an area of particular concern when the enforcement notice was received by the Council. Good progress has been made in clearing the backlog of requests throughout 2023 and increasing the response rate. The current position as at 26 October is as follows:

FOIA Cases overdue by 40+ days December 2022	FOIA Cases overdue by 40+ days May 2023	FOIA Cases overdue by 40+ days October 2023
198	65	0

8.5. For context, the total number of FOI requests received over the last two years is detailed below:

Year	Total FOIs Received
2021	986
2022	1169
2023 – 1 January to 26 October	1016

8.6. Communications in relation to compliance with the FOIA have been increased through 2023:

- Regular update emails from the CEO to all staff
- Regular performance updates to individual Executive Directors
- Updates provided to the Council’s Audit Committee
- Regular liaison between Information Governance and service areas

8.7. Increased monitoring of compliance throughout 2023 has highlighted areas that were struggling to meet the statutory timescales for FOIA requests. Additional Information Governance support has been made available to those areas in order to increase the efficiency in responding to requests.

8.8. The Council recognises the need for continuous improvement. A full internal review of the FOIA processes is to be commenced in November 2023. This review will ensure that the compliance rates are sustained in the medium to long term. Where changes to the existing processes are required, appropriate mechanisms will be put in place to ensure continued legislative compliance.

8.9. A report has been provided to the ICO outlining the action the Council has taken to comply with the enforcement notice, including a current position on compliance rate improvement since April 2023 when the enforcement notice was received.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Freedom of Information Act 2000 (FOIA)

[What is the Freedom of Information Act? | ICO](#)

Local Member: All

Appendices

Appendix A

FOI Improvement Plan

Appendix B

[Freedom of information requests | Shropshire Council](#)

Shropshire Council FOI Improvement Plan - Review

October 2023

Topic	Statement	Action	Priority High/med/low	Owner responsible for the action	Target implementation date	Completed
Governance Structure	There is governance oversight in place to ensure compliance with FOI/EIR	Information Governance Leadership and Organisational Oversight (Executive Directors - Quarterly Meetings)	n/a	ED Resources	n/a	Completed
	Responsibility has been assigned to ensure compliance with FOI/EIR	Responsibilities have been assigned	n/a	ED Resources	n/a	Completed
	Sufficient resources are assigned to the handling of requests for information to ensure response within the statutory timescales	Information Governance Team structure has been reviewed. Resources identified across directorates.	High	ED Resources	October 2023	Completed
Policies and Procedures	Policies and procedures are in place which explain the organisation's approach to, and responsibilities for, FOI and EIR	FOI handling procedure has been reviewed. This will continue to be monitored.	High	HP&G	September 2023	Completed
	Policies and procedures are easily accessible by staff	Updated and approved procedures are available to all staff via the corporate Intranet.	High	IGTL	September 2023	Completed

Topic	Statement	Action	Priority High/med/low	Owner responsible for the action	Target implementation date	Completed
	The organisation ensures that staff are informed of any changes to policies and procedures regarding FOI/EIR	Communications are cascaded via the Leadership Group and additional communication via ED Resources.	High	IGTL	September 2023	Completed
	Staff know who to contact for advice or assistance regarding policies and procedures for FOI/EIR	This information is published on the Intranet and Council website. Any changes will be communicated in a timely manner.	n/a	IGTL	n/a	Completed
	Policies and procedures for FOI/EIR account for personal information and how it should be dealt with	FOI handling procedure has been reviewed. This will continue to be monitored.	High	HP&G	September 2023	Completed
Compliance and Assurance	There are reporting mechanisms in place to provide oversight of requests and ensure that statutory deadlines are met	Real time compliance reporting is now available for monitoring by Directors.	n/a	HP&G	n/a	Completed
	There are mechanisms to monitor the quality of responses to requests and ensure that any reasons for refusal/application of exceptions are valid.	Procedures are in place to ensure that exceptions are managed.	n/a	HP&G	n/a	Completed
	Contracts with third parties do not restrict the release of information that should be available to the public	Contracts and agreements include appropriate clauses that mean third parties must support the council when	n/a	IGTL	n/a	Completed

Topic	Statement	Action	Priority High/med/low	Owner responsible for the action	Target implementation date	Completed
	and provide for access to information, by the public authority, when needed.	responding to requests for information.				
	Documented governance arrangements exist where the authority works in partnership with other organisations in relation to the handling of requests and/or the management of records.	Information Sharing Agreements are in place and include relevant clauses about supporting the council when responding to requests for information.	n/a	IGTL	n/a	Completed
	The organisation is complying with statutory timescales for FOI/EIR	Corporate priority that timescales are adhered to. Response rates have shown improvement through 2023. Backlog has been reduced. As at 25 October only two live requests over the 20 working day limit, this is within a reasonable tolerance level.	High	ED Resources	October 2023	Completed
		Standing item on agenda Item on Senior Leadership Meetings: Live monitoring via Management Dashboards. Focused targetting at areas	High	ED Resources	November 2023	Completed

Topic	Statement	Action	Priority High/med/low	Owner responsible for the action	Target implementation date	Completed
		continuing to not meet necessary timescales.				
	Internal review procedures comply with the relevant Codes of Practice and ensure that timely responses are provided to complaints.	Procedures for internal review are being reviewed to ensure the council follows best practice.	High	HP&G	October 2023	Completed
	Exemptions/Exceptions should be applied on a case-by-case basis, by appropriately trained staff, with no evidence of the use of blanket exemptions.	Information Governance Team undertake refresher training as overall specialists. Continue to keep skills up to date and undertake refresher training where gaps are identified.	High	IGTL	n/a	Completed
		Service Areas given awareness training to apply exemptions relevant to their information. Obtaining further advice from the Information Governance Team when required.	High	IGTL	August 2023	Completed
		Arrangements will be reviewed as part of review of Information Governance	High	IGTL	December 2023	Completed

Topic	Statement	Action	Priority High/med/low	Owner responsible for the action	Target implementation date	Completed
		Team and Training/Awareness.				
	There is evidence of an oversight or approval process for the use of exemptions.	Review of Information Governance Team Structure and Procedures will address this gap.	High	IGTL	December 2023	Completed
	Redactions should be applied on a case-by-case basis, by appropriately trained staff, and records should be maintained of what has been redacted.	Redaction software and procedures for using it, is available to teams requiring them.	n/a	IGTL	n/a	Completed
Training and Awareness	There is an induction training programme, with input from Information Governance or equivalent, which includes general training on how FOI/EIR applies to the organisation, what they currently do to comply, and how to recognise an FOI/EIR request.	Review training materials and training requirements and ensure this is included in the Induction Package. ICO general guidance video links are available to staff.	High	IGTL	September 2023	Completed
	Staff receive refresher training in the requirements of FOI/EIR, including, where appropriate, updates from the relevant decisions of	Link to guidance included with all requests. Guidance and specific advice provided by Information	n/a	IGTL	n/a	Completed

Topic	Statement	Action	Priority High/med/low	Owner responsible for the action	Target implementation date	Completed
	the ICO and the Information Tribunal.	Governance Team with all new requests.				
	There is specific training for staff with responsibility for handling requests for information, on FOI, EIR and Codes of Practice.	Information Governance Team have refreshed skills and continue to do so where gaps are identified.	High	IGTL	n/a	Completed
		Training gaps identified during Information Governance Team restructure and appropriate training provided with ongoing mentoring.	High	IGTL	October 2023	Completed
		Guidance is supplied to Service Areas for all requests they deal. To be updated when new structure and procedures are in place.	High	IGTL	October 2023	Completed
	Records are maintained, either centrally or by local management, of the FOI/EIR training received by staff. These records are monitored to ensure that all staff receive or attend all relevant training.	Review of training material will include modules on a platform that allows training to be monitored. Module for internal training platform created and awaiting final publication.	High	IGTL	December 2023	

Topic	Statement	Action	Priority High/med/low	Owner responsible for the action	Target implementation date	Completed
	Staff receive regular reminders of how to recognise FOI/EIR requests	All officers are made aware of FOI requirements through regular internal communications. These have increased throughout 2023.	High	IGTL	December 2023	Completed

ED Resources Executive Director Resources
 (Senior Information Risk
 Owner)
 HP&G Head of Policy and
 Governance
 IGTL Information Governance Team
 Leader

Key:

Action completed - solution in place
Solution in place but improvements are required