

Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Strategy

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## Freedom of Information Compliance: Annual Report 2019

### Executive Summary

This is the Annual Report for the 2019 calendar year monitoring the Council's performance in dealing with Freedom of Information (FOI) and Environmental Information Regulations (EIR) requests.

The Council's performance rate for timely delivery of responses to FOI requests during 2019 was 94%, which compares favourably with the figure of 93% recorded at the end of 2018, and that of 91.5% during 2017. The Council therefore exceeds both the Information Commissioner's performance indicator of 85%, and the 90% target agreed by Corporate Management Team.

### Recommendation to Committee

That Corporate Governance and Standards Committee notes the officer actions and continues to receive six monthly updates.

#### Reasons for Recommendation:

- To ensure that the Committee is kept up to date with developments in the FOI/EIR framework
- To ensure that the Committee has the necessary information to enable requests for information to be made easily to the Council and properly responded to
- To assist with learning and improving performance following requests for information made to the Council

**Is the report (or part of it) exempt from publication? No**

### 1. Purpose of Report

- 1.1 This Committee considers six monthly reports on the Council's performance in responding to FOI and EIR requests and identifying how it can make improvements to the way in which it responds to such requests.

- 1.2 Promoting openness and transparency in Council policy and decision-making is essential to promote public confidence within the Borough in order to improve prosperity and well-being as outlined in the Strategic Framework – i.e. the Council “will be open and accountable”.
- 1.3 Effective compliance with information governance, including the management of the Council’s FOI/EIR regime plays a key part in achieving these objectives.

**2. Background**

- 2.1 The Council is required to respond to FOI and EIR requests within 20 working days – subject to certain exceptions as long as the requester is kept informed – for example extra time can be taken to consider the Public Interest Test.

**3. Update on progress in 2019**

- 3.1 The Council received 732 FOI/EIR requests during the calendar year 2019. A total of 786 were received in 2018, so there has been an 7% decrease in requests over the last 12 months. This may be due in part to the Council’s online Disclosure Log, which has been live for almost a year now and has details of 350 responses – <https://guildford.disclosurelog.co.uk>.
- 3.2 The Council’s performance for 2019 is 94% of requests being closed within the statutory period (20 working days), compared with a figure of 93% in 2018, 91.5% in 2017 and 84% in 2016, 80% in 2015 –so for the fourth consecutive year performance has improved.

**4. Requests received by Directorate, January – December 2019**

- 4.1 The Finance directorate received the most requests with 217 (almost 30% of the total requests received). Of these requests, 98% were answered within the 20 working day time-scale.
- 4.2 The best performing directorates were Finance and Planning with impressive compliance rates of 98% and 97% respectively.
- 4.3 All directorates are currently performing above the regulatory performance target of 85% as set by the Information Commissioner’s Office (ICO).

**Fig 1 – Table of Requests by directorate and percentage answered in time**

Directorate	Requests received	Requests answered in time (within 20 working days)	Percentage answered in time
Community	198	187	94%
Environment	160	142	89%
Finance	217	213	98%

Directorate	Requests received	Requests answered in time (within 20 working days)	Percentage answered in time
Management Team	44	41	93%
Planning & Regeneration	113	110	97%
<b>TOTAL/AVERAGE</b>	<b>732</b>	<b>697</b>	<b>94%</b>

4.4 Ten service areas scored a highly commendable 100% performance rate - see table in Appendix 1 for full details.

## 5. Exemptions

5.1 The most frequently used exemption under the Freedom of Information Act used for withholding requested information (either partially or completely) was section 21 (information available by other means), which was used on 68 occasions to date this calendar year – marking a very similar trend to last year’s figure of 71.

5.2 This is largely due to the information being readily available on the Council’s website – e.g. information on business rates, public health funerals, planning applications, houses in multiple occupation (HMOs).

5.3 The next most commonly applied exemptions were section 40 (where third-party personal data is involved – used on 19 occasions) and section 43 relating commercial interests – cited on 12 occasions.

## 6. Categories of Requester

6.1 The highest proportion of requests during 2019 were from members of the public, accounting for 35% of all FOI/EIR requests – see table below for full figures.

**Fig 2 – Categories of Requester**

Correspondent Group	No. of requests	%
Charity	27	4%
Private Company	136	18.5%
Professional body	48	6.5%
Campaign Group	23	3%
Media	69	9%
Political	13	2%
“WhatDoTheyKnow”	39	5%
Trade Union	5	0.5%
Academic	13	2%
Member of the Public	254	35%
Legal	4	0.5%
Other local authorities	14	2%
Other	87	12%

## **7. Internal Reviews**

- 7.1 Ten FOI/EIR requests so far this year have gone to internal review stage – compared with eight for last year. In the case of one appeal, the Council’s original decision was overturned, and the information which had been withheld was released to the appellant. In all the other reviews, the original decision was either partially or completely upheld.

## **8. Subject Access Requests (SARs)**

- 8.1 The Council received 18 SARs in 2019 compared with 25 in 2018. Following the coming into force of the General Data Protection Regulation (GDPR) in May 2018, the Council experienced a spike in the number of requests received, particularly in the second half of last year. However, now that the dust around the GDPR has largely settled, the trend has since flattened out to a more normal pattern.

## **9. Equality and Diversity Implications**

- 9.1 No Equality and Diversity Implications apply to this report.

## **10. Financial Implications**

- 10.1 There are no financial implications to this report.

## **11. Legal Implications**

- 11.1 Failure to respond to FOI/EIR requests within 20 working days is a breach of the respective legislation. Requesters whose FOIs/EIRs have not been answered within the statutory time limit have the right to request an internal review and/or to make a formal complaint to the Information Commissioner’s Office (ICO). There are therefore direct legal implications associated with the risk of reputational damage to the Council, adverse publicity and active monitoring by the ICO.

## **12. Human Resource Implications**

- 12.1 There are no proposals in this report with any direct HR implications.

## **13. Conclusion**

- 13.1 The Council’s overall performance on the timely delivery of information requests has exceeded Corporate Management Team’s set target of 90% for the third consecutive year. Notably, ten service areas deserve special commendation for achieving a 100% compliance rate.
- 13.2 However, there is still room for improvement across the board. The Council will continue to strive to achieve as close to 100% compliance as possible.
- 13.3 Directors will ensure requests in their service areas remaining overdue or approaching their deadline date are resolved as soon as possible so that current standards can be kept up and if possible exceeded

**14. Background Papers**

None

**15. Appendices**

Appendix 1: FOI/EIR Requests received by service area 01/01/19 – 31/12/19