

FREEDOM OF INFORMATION, DATA PROTECTION AND TRANSPARENCY: ANNUAL REPORT 2017/18

To:
Civic Affairs Committee 10/10/2018

Report by:

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Wards affected:

All

1 INTRODUCTION

- 1.1 This report provides Civic Affairs Committee with an annual report on performance and activity during 2017/18 on transparency issues, including: data protection; requests for information under Freedom of Information (FOI) and Environmental Information Regulations (EIR); and open data.

2. RECOMMENDATIONS

- 2.1 Note: Changes to information legislation under GDPR & Data Protection Act 2018 in May 2018

Information Governance Service

2.2

The Information Governance (IG) service falls under the 3C ICT shared service with Huntingdonshire District Council and South Cambridgeshire District Council. The IG service produces and implements the Information Governance framework regarding Access to information, Information Management and Data Protection and information security, in accordance with legislation. The four person

team is headed up by the Information Governance Manager who is also the Data Protection Officer; this is a new independent statutory role mandatory for local authority.

3. DATA PROTECTION

Background & Changes to Legislation

- 3.1 The Council collects and holds a wide range of personal information about our tenants, residents and the users of our services. This information helps us to provide services and assist our customers.
- 3.2 The Data Protection Act (DPA) provides a framework to ensure that personal information is handled appropriately, fairly and securely. Note the legislation went through an overhaul in May 2018 when the General Data Protection Legislation (GDPR) came into force and was enacted in to UK law by the Data Protection Act 2018. The Council must process personal data in accordance with the Data Protection Principles, as follows:
 - Information must be processed fairly and lawfully. This means that the individual providing personal information to Council services must clearly understand why their data is needed, who it will be shared with, giving them a clear indication of how their personal data will be used.
 - Personal information is collected for specified, explicit and legitimate purposes, and ensuring that the information collected is not processed in a manner incompatible with those purposes.
 - Using personal information only for the purposes specified by the authority to the Information Commissioner Office (ICO)
 - Processing is adequate, relevant and limited to what is necessary.
 - Ensuring that personal information collected is accurate, kept up to date, and inaccurate, information is erased or rectified without delay.
 - kept in a form which permits identification of data subjects for no longer than is necessary.
 - Ensuring that personal data is kept securely. The Council is required to take appropriate technical and other measures to prevent unauthorised or unlawful access to personal information, or accidental loss, destruction or damage of personal information.
 - Ensuring that personal information about individuals is not shared with other people or organisations, except in the circumstances

described by the Act. These exceptions to the Act include when information could assist in the prevention and detection of a crime, the apprehension or prosecution of offenders and matters of taxation and where disclosure is required by law or in connection with legal proceedings.

- Providing individuals with access to information held by the Council about them, through responding to Subject Access Requests and by upholding their enhanced rights. The Council must now be much clearer about what we do with individual's personal data through our Privacy Notices. Other rights include the right to rectification, erasure, to restrict processing, data portability, and to object to processing.
- The Council is now required to prove accountability - it does this by recording its processing activity (The Council maintains an Information Asset Register) and is required to have processing agreements or sharing agreements in place with all third party processors of personal data.

Data Breaches

- 3.3 If the Council is in breach of the above data protection principles, it can have a significant impact on the individual(s) affected. In particular, the loss or unauthorised sharing of personal information can have serious impacts, ranging from harassment to identity theft. In such circumstances, public bodies such as the City Council can be liable for significant fines.
- 3.4 The Information Commissioners Office (ICO) receives reports of breaches of the Data Protection Act and makes decisions in each case. The ICO under the new law has the power to impose fines of up to £17million (previously the maximum was £500,000) for breaches of data protection obligations, as well as issuing enforcement notices and requiring organisations to sign undertakings to improve their practices.
- 3.5 Their guidance on notification of data breaches under the new law is that where a breach incident is likely to result in risk to the rights and freedoms of individuals, the Council must inform the ICO within 72 hrs and if its likely to result in high risk to rights and freedoms of

individuals, the Council has a lawful duty to inform the individuals without undue delay. The Council has a new incident policy to reflect this.

- 3.6 The Council consider the following factors as laid out in the (ICO) guidance when considering what should be reported. Potential detriment and adverse affect to the data subject is the overriding consideration. This includes emotional distress, and includes information about the private aspects of a person’s life becoming known to others. The extent of detriment depends on the volume of the data and its sensitivity. Where there is little risk that individuals would suffer significant detriment there is no need to report.

Cambridge City Council Performance 2017/18

- 3.7 The council records incidences of data breaches or incidents. In 2017/18 eleven incidents were reported by staff or the public. This is a reduction on the previous years (16 incidents were reported 2016/17)

Type of incident	Count
Cyber security <ul style="list-style-type: none"> • Malware potentially affecting one computer. • Spear phishing email (Email posing as someone known to the receiver or a known account). • Nation-wide ransom-ware attack (WannaCry) Some machines disabled from the network as a precautionary measure. • A Councillors personal email hacked. 	4
Data posted to incorrect recipient <ul style="list-style-type: none"> • There have been 3 instances where emails containing personal information have been sent to the wrong recipient in error. 	3
Failure to properly redact data <ul style="list-style-type: none"> • Ineffective or incorrect redaction of documents. 	2

<ul style="list-style-type: none"> • Personal data published in error. 	
Inappropriate disclosure	
<ul style="list-style-type: none"> • Tender evaluation data provided to unsuccessful bidder 	1
Loss	
<ul style="list-style-type: none"> • Licence application mislaid. 	1

3.8 In all instances, immediate steps were taken by officers to mitigate the incident, once known, such as contacting incorrect receiver of emails from the recipients of the email and those affected, and removing documents from the Council’s website. Management actions have also been taken to continue to reduce the risk of similar incidents taking place in future, including new data protection and cyber security training.

3.9 The decision was made to notify the ICO of the malware incident affecting one computer, due to the potential risk that may have existed, to enable individuals to safeguard themselves from any potential risk. Where possible those individuals have been informed. To date no one has been adversely affected. We have supported the ICO with their review; however we have not been informed of any findings to date.

3.10 Increased awareness of data protection further to this years work across the authority in preparation for the changes to legislation (GDPR) has resulted in more enquiries especially around information sharing and safe disposal of information and retention practices. This is a positive outcome for the council, as staff are more aware of data protection and vigilant to areas of risk.

3.11 An Information Security Group (ISG) meets regularly to review issues and drive improvements in the Council’s approach to information security matters. Membership includes the Head of Service or senior managers representing City Council services that handle a high volume of personal data, including Revenues and

Benefits, Housing, Customer Services, Community Services and Human Resources. The Group is chaired by the Senior Information Risk Owner. The Strategic Director took over this role in July 2018

- 3.12 The IG team have put in place a web policy portal which contains up to date data security suite of policies, these alongside other IG framework policies will be accessible in a one stop shop on the Information Governance 3C intranet. Numerous Information governance policy and guidance have been updated or created to reflect the enhanced accountability measures under the new Data Protection Legislation.
- 3.13 Staff training and awareness of data protection continues to be key to data protection compliance in the City Council. All new staff are required to complete a *Data Protection* e-learning module, ideally on their first day of employment within the organisation. This may not be feasible in all situations (i.e. where a colleague is still waiting for their email account to be created) and therefore in these circumstances we allow 10 days for this to be completed. Temporary staff are also required to complete the Data Protection e-learning module as part of their first day induction.
- 3.14 A session on information security is included at corporate induction, attended by all staff joining the Council.
- 3.15 In addition to new staff, all existing staff with access to Council IT accounts are required to complete the GDPR and Data Protection e-learning module. At the time of this report 575 had completed the new training. The team are monitoring to ensure this is achieved.

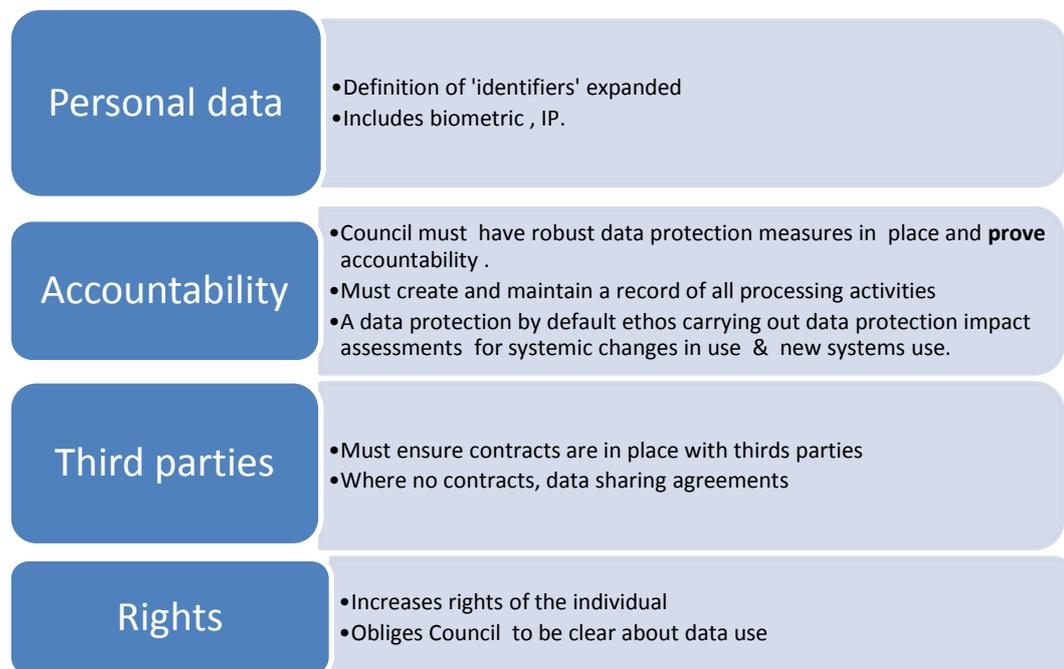
The Information Governance team have procured a new information security video training module for staff and Members, which covers awareness in cyber security in addition to how to protect information in general. Staff will be expected to complete both training modules within a twelve month period this will serve to keep good data protection practices fresh in mind.

- 3.16 GDPR awareness training seminars were run for staff and Members.

3.17 Specific training requirements are identified in the Training Needs Assessment and rolled out in an annual programme.

Looking Forward

3.18 The implementation of the GDPR into UK law of has been the focus of the Information Governance team. Preparation for the Council to comply with the tighter legislation has included many work streams and focused on the following key legislative changes –



3.19 Service level reports with 10 actions were produced as a method to record tasks and monitor the progress to make the necessary compliance changes, to enable scheduled conclusion of tasks. A GDPR consultant has assisted with this work (July- September 2018). The Council is in a satisfactory position in terms of compliance.

3.20 The IG team have produced a 2018/19 forward plan which itemises compliance tasks to ensure the Council has appropriate measures in place to protect personal data, which underwent review by the Information Security Group and will be reviewed by the 3C Board in October 2018. The forward plan reinforces the requirement to embed

a robust accountability structure (see appendix C) and regular engagement with those parties is scheduled.

3.21 ACCESS TO INFORMATION

3.22 The Freedom of Information Act 2000 (FOI) and the Environmental Information Regulations 2004 (EIR) give rights of access to information held by public authorities. Both require the authority to proactively disclose certain information, and to release other information in response to requests, subject to certain exemptions.

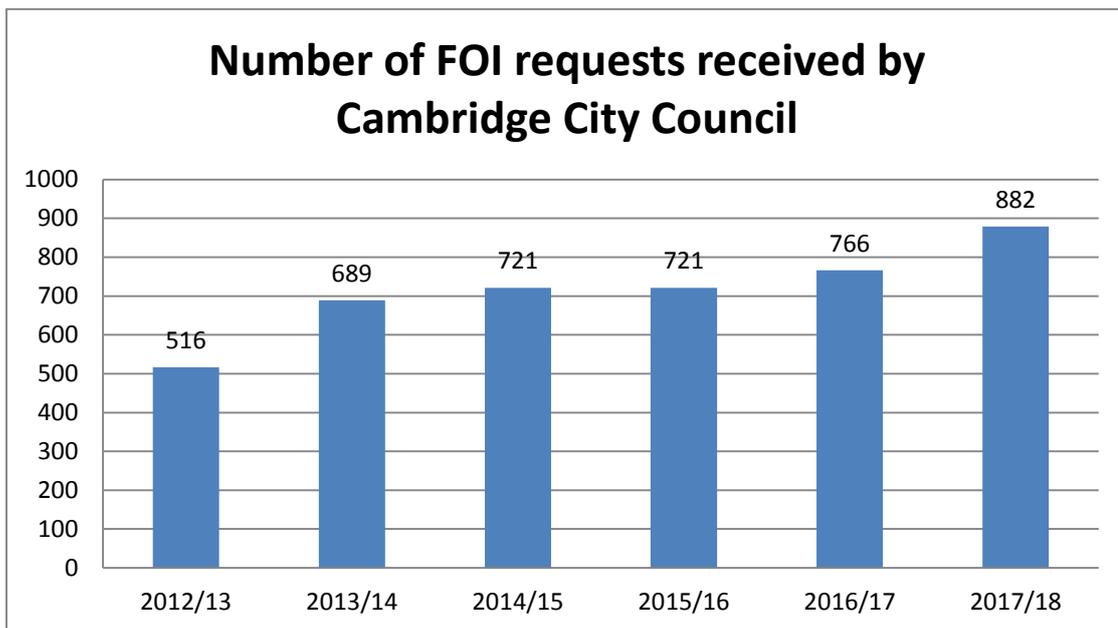
3.23 EIR gives access to information about the environment, and requests for information held by a number of Council services, including planning services, environmental services and the shared waste service, fall under this legislation.

Performance

3.24 In 2017/18 (April – March) the council received a total of 882 requests under FOI and EIR, a 15% increase in the number of requests received in the previous year.

3.25 The 2017/18 figure comprises of 2 elements: 767 requests answered by services at Cambridge City Council and 115 requests directed to CCC that were answered directly by 3C Shared Services teams.

3.26 As Figure 1 below shows, there has been a significant increase in the number of requests over the past 6 years, from 516 in 2012/13 to 882 in 2017/18. This represents an increase of 70 % over this period. There has been increase nationally. Top FOI enquirers were a number of personal search companies requesting land charges information. Journalists requesting homelessness figures and cost, and tower block fire safety (following Grenfell tragedy last year) and information on enforcement and licensing carried out by the council. These were followed by further enquiries from members of the public. General public enquiries still make up largest share of FOI requests, followed by Corporate and Media. Frequent topics relate to planning applications and developments.



3.27 The authority has a duty to respond to FOI and EIR requests as soon as possible, and no later than 20 working days following receipt. This can be extended to 40 working days when considering the public interest on an exemption (FOI) or if the information requested is 'complex and voluminous' (EIR).

3.28 The Council responded to 90% of FOI requests in 2017/18 within 20 working days. This performance meets the threshold set by the Information Commissioner's Office (ICO), which monitors the compliance of local authorities with FOI legislation. The Council has a performance target of 100%.¹

3.29 As Figure 2 below shows, the Council's performance on FOI requests within 20 working days has been above the ICO threshold in 4 out of the last 6 years. Performance in 2014/15 (84%) dropped below the ICO threshold largely due to poor performance in Quarter 4, when 77% of requests were responded to on time. Performance in 2017/18 exceeded the ICO's previous target of 85% and meets the revised target of 90%.

¹ <https://ico.org.uk/media/action-weve-taken/monitoring/2791/how-the-ico-selects-authorities-for-monitoring.pdf>
Version 4 published 3 March 2017

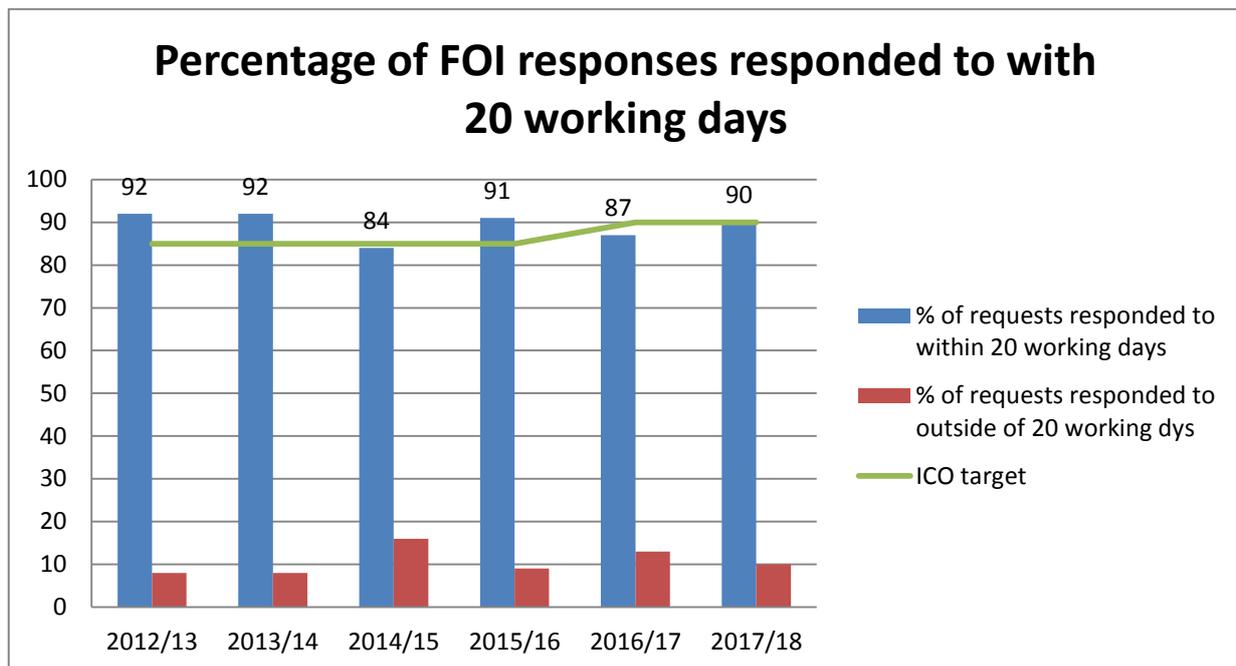


Fig 2 Percentage of FOI responses responded to with 20 working days

3.30 The average number of days taken for the Council to respond to the FOI requests is 10.73 days.

3.31 To improve the response further, weekly updates are now circulated to managers alerting them to requests that have five days remaining to conclude. Where responses did exceed the 20 working day limit, reasons include:

- complex requests involving a high volume of information to be considered
- information having to be gathered and collated from a number of sources
- taking time to consider relevant exemptions for disclosure of parts or all of the information requested

3.32 It should also be noted that, although the time limit for responding to most requests is 20 working days, there are some circumstances where it is legitimate to respond to a request under FOI and EIR within 40 working days. Under both FOI and EIR legislation, if a request is being clarified with the applicant then these requests should be placed 'on hold' and the time waiting for clarification should not count toward the overall processing time.

3.33 The number of requests received by different Council services varies significantly. Figure 3 below provides a breakdown of request by service area for the period April – March. Requests to three customer facing services account for over 50% of FOI requests to the council in 2017/18. The top three services were: Environmental Services (24%) Planning (21%) and Housing Services (12%).

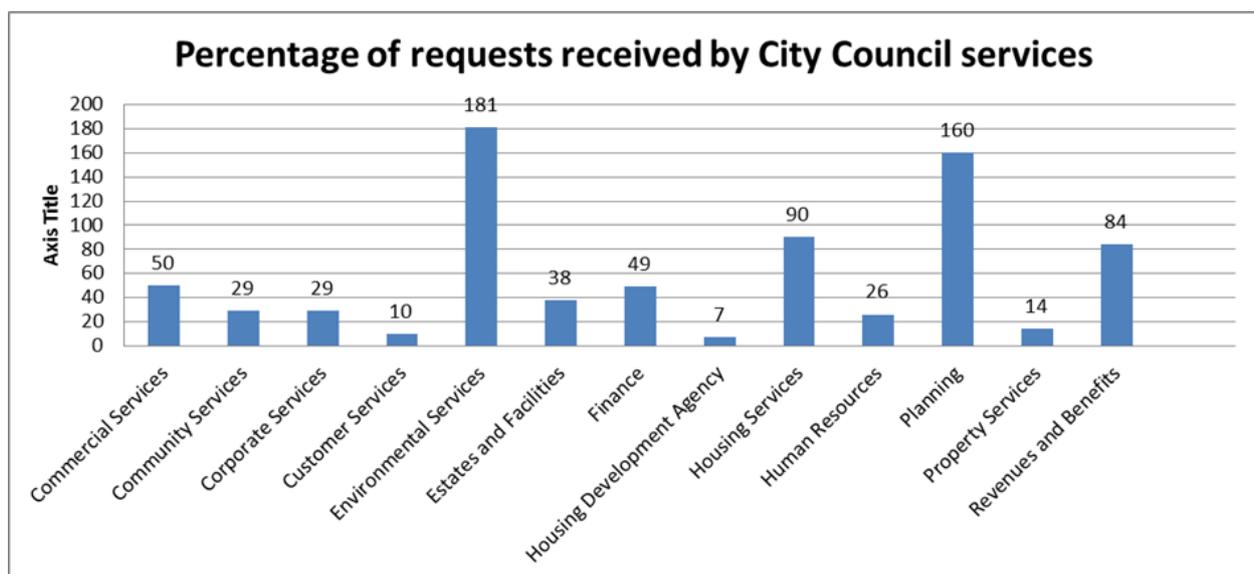


Fig 3 Percentage of requests received by City Council services

3.34 The Council uses an FOI case management system to coordinate request handling.

Looking Forward

3.35 The case management system went live in June 2017. It enables officers to manage their FOI caseload through automatic reminders of deadlines, the ability to centralise information disclosed, and by standardising responses by use templates improved quality of communication and compliance with legislation. All requests are logged and acknowledged centrally, and performance data is readily accessible to users.

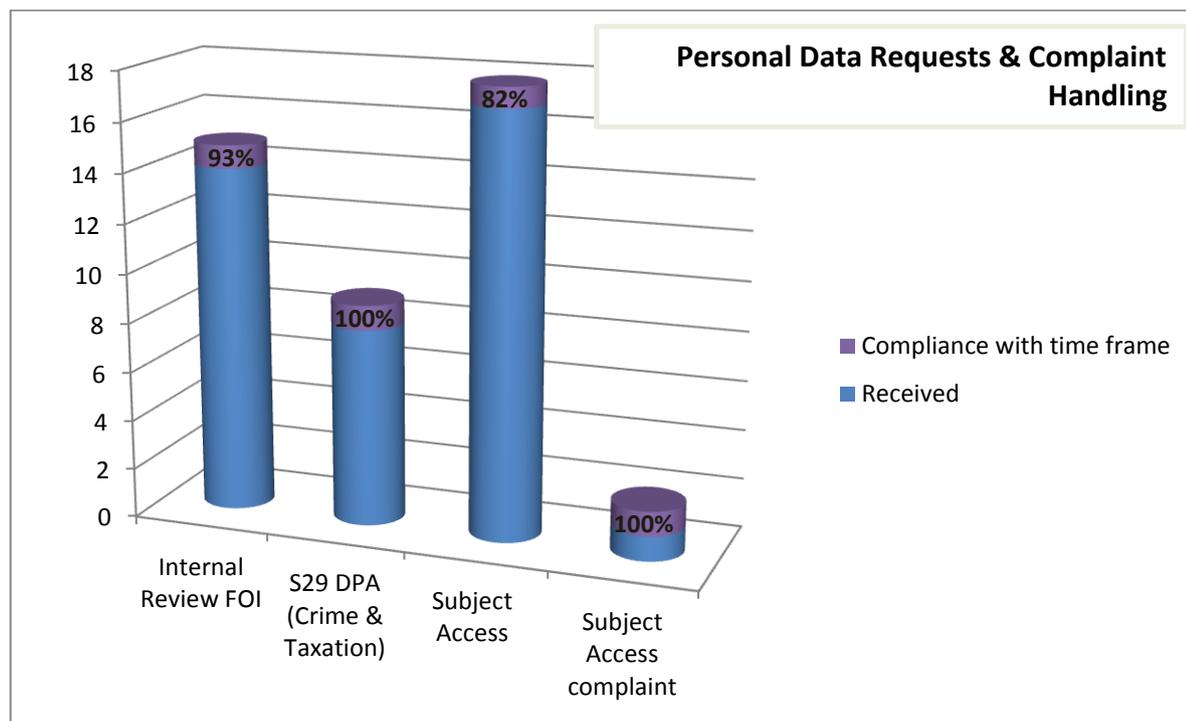
3.36 The case management system allows for central oversight of requests, reducing the administration time for requests and improving

the timeliness of responses. Where requests for information involve multiple services, these are managed centrally by the IG team therefore improving performance in handling complicated requests. The automated web site disclosure log will be implemented in October, allowing efficient publication of FOI responses on the website. This is currently manually uploaded: a laborious inefficient process.

3.37 The case management system is also used to log other information requests such as Section 29 requests, Subject Access Requests, Internal Reviews, Complaints and other information requests. The below statistics are available from April – March 2017/18.

3.38 Under GDPR, the public have a Right of Access which is equivalent to Subject Access Requests (SAR) under DPA 1998. However, the time period is reduced to 30 calendar days and a charge is not permissible. The data in the chart below relates to the period when a 40 day response time was required.

3.40 Internal reviews, Section 29 (crime & taxation) requests from third parties, complaints and other information requests should be answered within 20 working days.



3.41 OPEN DATA AND TRANSPARENCY

3.42 The Council continues to pro-actively publish information and data as part of its work on open data and transparency. There are a number of drivers for this work

- Ensuring that the work of the Council is transparent and increasing access to information about the Council's activities so that members of the public can hold the Council to account – this is one of the City Council's core values
- Meeting the requirements of the Local Government Transparency Code
- Meeting the publication scheme requirements of the Freedom of Information Act.

3.43 The Local Government Transparency Code 2015 requires local authorities to publish specific datasets under a number of categories of information, and update this information on a quarterly or annual basis. See Appendix A for details of all mandatory datasets, all of which are available.

3.44 The Council also publishes a range of datasets (see Appendix B for a full list) in response to the requirement in the FOI Act to have a publication scheme, including information on:

- What the Council does
- What the Council spends and how it is spent
- Priorities and performance
- Inspection reports
- Decision-making
- Policies and procedures
- Lists and registers

- Services performed by the Council
- 3.45 In addition to the data that the Council is required to publish by the Transparency Code and the FOI Act, we have also identified data and information which is most frequently requested under FOI and EIR and published it voluntarily on the Council's website. The aim of this work is to reduce the burden of responding to FOI and EIR requests and to make data more easily accessible to our customers.
- 3.46 The council regularly publishes data most frequently requested under Freedom of Information. These relate to the Council's Non-Domestic Rates (Business Rates) and information held by the Bereavement Services regarding assisted funerals. While the Council continues to receive requests for this information, proactive publication has reduced the time taken to respond to these requests significantly, because requesters can be quickly directed to the information on the website, rather than staff having to generate the data in response to each request.
- 3.47 It would not be practical for the Council to publish all the information requested under FOI on a proactive basis. The Council receives a wide range of requests for information, many of which are not repeated. Where possible the Council continues to identify datasets that can be proactively published to meet public demand for information, and refer requesters to this information as much as possible. This can include information published by third parties.
- 3.48 The IG team will be running an Open Data Strategy over the next twelve months, working with partners at Cambridgeshire County Council, publishing our data sets through the Cambridgeshire Insight web site. This allows users to access City Council data alongside data from neighbouring authorities; making the data available more widely through the national data.gov.uk portal; and providing additional metadata about the datasets, which will improve the Open Data classification rating of our information.

3. 49 CONCLUSIONS

The Council takes transparency issues seriously and is broadly compliant with the legislation. A number of measures have been put in place to increase the Council's performance in these areas, and to reduce the risk of breaches in compliance with the legislation.

Officers will continue to review practice, learning from 3C ICT partners and others to strive to continually improve performance, serve residents better and reduce the council's exposure to risk.

4. IMPLICATIONS

(a) Financial Implications

No decisions with financial implications are proposed in this report.

(b) Staffing Implications

Staff will continue to be supported to understand and meet their obligations regarding the protection of personal data and to apply appropriate practices in accordance with the new information legislation and the Councils policies.

(c) Equality and Poverty Implications

This report does not propose decisions with equalities impacts, so and EqIA has not been produced.

(d) Environmental Implications

No decisions with environmental implications are proposed in this report.

(e) Procurement

n/a

5. Consultation and communication

As set in the body of the report, the need for vigilance and training on data protection and related matters has been communicated to managers and staff regularly. Senior managers have been consulted in the production of this report.

6. BACKGROUND PAPERS:

No background papers that were used in the preparation of this report:

7. APPENDICES

Appendix A Local Government Transparency Code Datasets
(Mandatory)

Appendix B Data already available through FOI Publication Scheme

Appendix C Information Governance Accountability Framework

8. To inspect the background papers or if you have a query on the report please contact Jo Brooks. Tel: 07814 390 368. Email: jo.brooks@3csharedservices.org

Appendix A: Local Government Transparency Code Datasets (Mandatory)

Information Title	Dataset	Frequency
Expenditure over £500	Details of each individual item of expenditure that exceeds £500	Quarterly
Government procurement card transactions	Details of every transaction on a Government Procurement card	Quarterly
Procurement information	Invitation to tender for contracts with a value over £5,000	Quarterly
	Details of any contract, commissioned activity, purchase order, framework agreement or other legally enforceable agreement with a value over £5,000	Quarterly
Local Authority Land	Publish details of all land and building assets	Annual
Grants to voluntary, community and social enterprise organisations	Grants to voluntary, community and social enterprise organisations, either through tagging transactions in the expenditure over £500 dataset or publishing as a separate list or register	Annual
Organisation chart	Organisation chart covering staff in top 3 levels of the organisation	Annual
Trade Union facility time	Number of union representatives, number or representatives devoting at least 50% of their time to union activities, trade unions represented in the local authority, estimate of spending on the unions as a percentage of total pay bill	Annual
Parking revenues	Revenue collected from on and off street parking, parking enforcement notices	Annual
Controlled parking spaces	Number of marked out controlled on and off street parking spaces	Annual
Senior salaries	Number of employees whose remuneration was at least £50,000, details of remuneration and job title of senior employees whose salary is at least £50,000, list of functions these staff are responsible for, budget held	Annual
Constitution	Constitution	Annual
Pay multiple	Pay multiple defined as ratio between	Annual

Information Title	Dataset	Frequency
	highest paid salary and median salary of the workforce.	
Fraud	The Councils Counter Fraud work	Annual
Social Housing Asset Value	Value of social housing stock that is held in the housing revenue account.	Annual

Appendix B – Data already available through FOI Publication Scheme

What we do

- Constitution
- Council and democratic structure
- Location and opening times of our offices
- Councillors information and contact details
- Election results
- Relationships and partnerships with other authorities

What we spend and how we spend it

- Financial statements, budgets and variance reports
- Capital programme members allowance scheme
- Staff allowances, expenses pay and grading
- Election expenses
- Procurement
- District Auditors report
- Financial statements for projects and events
- Internal financial regulations
- Funding for our partnership arrangements

What our priorities are and how we are doing

- Annual reports
- Strategies and business plans for services provided by the council
- Internal organisational performance reviews
- Strategies developed in partnership with other authorities
- Economic development action plan
- Forward Plan

Inspection reports

- Statistical information provided by the Council
- Impact assessments service standards

How we make decisions

- Timetable of committee and council meetings

- Agendas, minutes and reports
- Copies of agendas and decision notes
- Major policy proposals and decisions
- Copies of agendas and decision notices
- Public consultations and their outcomes
- Guidance and good practice notes for officers and Councillors

Our policies and procedures

- Policies and procedures for conducting council business
- Codes of governance, our constitution and the regulations that inform how we make policies.
- Policies and plans for delivering our services
- Recruitment and employment policies and procedures
- Customer service standards
- Housing and tenancy services, complaints procedure
- Personal data policies
- Data protection policies and our privacy statement
- Charging regimes and policies

Lists and registers

- Public registers
- Details of the registers we hold as public records and how to access them.
- Asset registers
- Information on the assets we hold and how we manage them.
- Freedom of Information disclosure log
- Register of councillors' financial and other interests
- You will need to select the Councillor you are interested in

Services provided by the Council

- A-Z of the services we provide
- Information for visitors to the area
- Services for local businesses
- Economic data, information and advice, planning guidance
- Leisure information
- What is on in and around Cambridge

- Newsletters
- Newsletters produced for city residents and tenants
- Advice and guidance
- Details of the advice and guidance we give to city residents
- Media releases

Appendix C - Information Governance Accountability Framework

