

SCRUTINY ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF GOVERNANCE	INTERNAL AFFAIRS SCRUTINY COMMITTEE	21 NOVEMBER 2023	6

INFORMATION RIGHTS OVERVIEW AND STATISTICS

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THIS REPORT

As part of the council's commitment to openness and transparency, the committee has asked to receive a yearly report about how the council meets its obligations in relation to information rights. The report covers freedom of information, environmental information and subject access. The report is intended to help councillors understand the duties that the council has, its performance against statutory and other metrics and to set a benchmark for future comparison.

SOURCE OF REFERRAL

The report is included in the committee's workplan.

RECOMMENDATION

Note the report, and request that a similar report be brought to the committee each year.

REPORT

INTRODUCTION

1. As a public body, the council is expected to be transparent, open and accountable. The default position is that all information held by the council which is not personal data should be publicly available unless there is a reason it should remain private. Personal data should, except in very limited circumstances, be available to the subject of the data. This is the fundamental basis of the laws governing information rights.
2. The **Freedom of Information Act 2000 (FOIA)** provides a general right of access to information held by the council and other public authorities. Under FOIA, any person can make a request in writing for any information that the council holds. The council must provide the requested information within 20 working days, unless an exemption applies, the request is considered vexatious, or the cost of compliance exceeds the appropriate limit (which is the equivalent of 18 man-hours of work). There are a number of exemptions under FOIA, many of which require consideration of the balance of public interest. Requestors do not need to supply a reason for requesting information. If a request is refused, the requestor has a right to an internal review and can refer the matter to the Information Commissioner's Office and, ultimately, to the First-Tier Tribunal.

3. FOIA itself does not cover **environmental information**, which is accessible through the Environmental Information Regulations 2004 (EIR). For the purposes of this report, FOIA and EIR requests will be considered together as 'information requests'.
4. The Data Protection Act 2018 gives individuals rights of access to information about themselves. This allows individuals to make **subject access requests** (SARs) to organisations that process their personal data. The council must respond to a SAR within one month. There are limited exemptions from the right of access under the Data Protection Act.

CONTEXT

5. Requestors are not required to give a specific reason for their request; all that's necessary is a name and an email address. In the span of a year, the council receives up to 850 information requests, a substantial increase compared to the 2007 figures, which were about four times lower. Originally FOIA was designed to empower citizens to scrutinise both local and national public bodies. However, it's noteworthy that the council doesn't receive a substantial number of information requests from local residents or council taxpayers. Instead, it appears that the majority of requests originate from businesses or political and campaigning organisations, operating on a national scale. This observation is based on limited verifiable information, as very few requesters supply details beyond their name and email address. Despite this, it's important to underline that both FOIA and EIR apply equally to all types of requests within their scope, whether they come from individuals or organisations.
6. The council receives a much smaller number of SARs than information requests. There are usually less than 20 SARs per year. Virtually all SARs come from local residents. Requestors often make SARs during ongoing disputes with the council, rather than the SAR being motivated primarily by a wish to see the personal data that the council holds.
7. Information requests and SARs must be made in writing but can be made through any channel. The council maintains a portal and an email address (foi@fyld.gov.uk) for information requests. Nevertheless, a request for information made in writing to any council officer or councillor must be dealt with as an information request or SAR.
8. Requests are referred to and managed by the Governance team. There is presently one officer whose duties include being responsible for information requests, alongside other duties. Backup in case of leave or other absence is provided by the legal team. There is another post, presently unfilled, which will support in the work.
9. Requests made through the information requests portal are automatically acknowledged. All information requests are also acknowledged when received by the Governance team. The tasks of the team include distributing requests to information holders, reminding information holders of due dates, advising on possible exemptions and fulfilling requests by sending the requested information to the requestor, or giving notification of refusal.

PERFORMANCE

10. For the purposes of this report, performance is reported for the period October 2022 to September 2023. Some of the information is incomplete for the period from December to July. This is because of the circumstances set out in paragraph 11. Those circumstances also account for the poor performance during that period.
11. From December until July, the officer principally responsible for information requests was on sick leave. During most of this period, the legal team was reduced to a maximum of one officer (apart from the head of service) by maternity and sick leave and an officer leaving the authority. Consequently, the head of service personally administered information requests during this time. The head of service did not have access to existing request files or records (as the council moved to new ways of online working, which now fully in place have the effect of allowing seamless collaborative working), so relied on a rudimentary replacement procedure.

12. The statistics below show the council’s performance for information requests during the period.

Month	Requests received	Number closed within statutory deadline	Percentage closed within statutory deadline (to nearest %)	Number refused (reason)
October 2022	42	30	91	3 (3x s.31: Law enforcement)
November 2022	42	28	84	1 (s.14: vexatious)
December 2022			74	
January 2023			46	1
February 2023			54	4 (3x s.14: previously replied, 1x s.21: accessible by other means, 1x s.38: danger to health)
March 2023			52	
April 2023			59	
May 2023			42	
June 2023			55	
July 2023			72	
August 2023	61	60	98	
September 2023	56	53	95	1 (s.30: Criminal investigations)

13. The council received 13 SARs during the period October 2022 to September 2023. One was refused as being manifestly unfounded. Of the remaining twelve, nine were complied with within the statutory deadline of one month from the date of receipt. The other three were responded to outside the statutory deadline, giving a response rate of 77% within the required deadline.

SUMMARY AND CONCLUSION

14. The report shows that the council's performance in responding to information requests and subject access requests within statutory deadlines was significantly affected from December 2022 to July 2023 due to staff absences. Performance has recovered since August 2023 with response rates now consistently above 90%. Going forward, steps have been put in place to try to ensure sufficient resilience in the team handling information rights requests to maintain performance even during periods of unexpected staff absence.

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
FOI spreadsheet 2023		Town Hall, Lytham St Annes

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	Email & Tel 01253 658506	9 November 2023