

AGENDA ITEM

REPORT TO EXECUTIVE SCRUTINY

24th NOVEMBER 2015

REPORT OF CORPORATE MANAGEMENT TEAM

REVIEW OF FREEDOM OF INFORMATION REQUESTS

SUMMARY

This report presents Members with baseline information in respect of the reporting in review of Freedom of Information.

RECOMMENDATION

1. Members note the detail of the report
2. Receive a further report analysing detail, providing findings and recommendations

BACKGROUND

1. The scoping document (**Appendix 1**) for the Freedom of Information (FOI) Review presented the overall aims as:
 - To provide an understanding of the requirements of Freedom of Information legislation
 - Demonstrate how the council currently manages FOI Requests,
 - Examine the scope within the legislation to consider options that might better support our approach to managing FOI's
 - Share examples of type and complexity of the sorts of requests received
 - Consider recommendations for improvements to the way in which we manage demand and requests going forward.
2. The key lines of enquiry were defined as:
 - Appropriate interpretation and use of the legislation to manage demand.
 - Use of the exemptions, best practice with respect to use of exemptions.
 - Volumes and Officer time spent on collating and responding to FOI's.
 - Processes to record and respond to FOI.
 - Publication and transparency
 - Whether any records management learning opportunities can be gained which lead to further efficiencies.
 - Whether learning opportunities are being sought as a result of the information gathered to respond to the initial requests
 - Practice elsewhere

DETAIL

3. The Freedom of Information Act 2000 provides public access to information held by Public Authorities. It requires Public Authorities to publish certain information about their activities and provides an entitlement to the public to request information held by Public Authorities.

4. The Act covers any information held by Public Authorities in England, Wales and Northern Ireland and UK wide public authorities based in Scotland. Scotland have their own Freedom of Information Act (Scotland) 2002.
5. Public Authorities include government departments, local authorities, the NHS, state schools and Police Forces, it does not necessarily cover every organisation that receives public funding for example charities, or private sector organisations that perform public functions can be exempt.
6. The Act only covers **recorded** information. This can be in different formats; e.g printed documents, electronic records, letters, emails, photographs and sound or video recordings. It also requires requests to be acknowledged within 24 hours and responded to within a 20 working day period.
7. The act requires a request to be in writing and to be from a named individual. Anonymous requests are not a valid FOI.
8. The Act does not give people access to their own personal records/ data (information about themselves) such as social care records or an individual's council tax records. These sorts of requests are covered by the Data Protection Act 1998.
9. The Freedom of Information Act requires use and interpretation, of a number of other acts and regulations, such as the Data Protection Act, Environmental Information Regulations, Privacy and Electronic Communications regulation, and the reuse of Public Sector Information Act. Knowledge of these, needs to be taken into consideration, when dealing with FOI requests.
10. The act includes a series of exemptions which can be applied when responding to requests. Some of those more commonly used are attached at **Appendix 2**.
11. The act is enforced and regulated by The Information Commissioner (ICO) whose mission is to uphold information rights in the public interest, promote openness by public bodies and ensure data privacy for individuals. The ICO also provide information and advice to individuals and organisations with respect to the act, they adjudicate on complaints and promote and share good practice.

CURRENT ARRANGEMENTS

12. The Authority currently has a devolved model of managing FOI requests across CESC, DNS, Resources and Public Health, with officers, as part of Business Support Teams assigned in service areas to coordinate and manage responses. Policy, practice and procedure are in the main consistent across all service areas. Service areas work well together in managing FOI requests, with a cross service area improvement group meeting regularly to share good practice and improve recording and procedures where possible.
13. As a result of this working group, the last 3 years have seen a number of changes to our internal procedures and practices. These have resulted in more effective recording of FOI's received, onto one system, providing better intelligence on requesters, subjects, response times and management of cases that have been referred to the regulator. Procedures and practices have also been streamlined minimising the risk to the authority with respect to reputation and potential breach of the act. All FOI's now come into the authority through a single dedicated email address; an allocation procedure is now in place, which ensures the most appropriate service area deals with the request and receives sign off by the most appropriate corporate director.
14. The customer experience is now better, with improved information on making an FOI request available via the council's web site.

15. Improved links to the Communications Team are now in place to ensure consistency of responses with any similar press enquiries. The communication team automatically receives a copy of any requests from a journalist and also have an opportunity to comment on responses before they go out. A daily log of press enquiries is also shared with the Business Support Team who logs all incoming FOI's. This allows for sharing of intelligence, minimising risk or duplication.
16. Training and sharing of knowledge and good practice has also delivered a greater consistency across the council in dealing with requests and ultimately a better use of exemptions where appropriate and an improved customer experience.
17. As a result of improved intelligence gathered from the central recording system, there is a greater understanding of the frequency of topics being requested. This has led in some cases to the regular publication and updating of information on the council's web site. Requesters can access this directly or be directed to it following receipt of a request. An example of this is frequent requests regarding Public Health Funerals, or questions relating to revenue generated from car parking. Directing requesters to the web site negates the need to log and process an FOI.
18. Most requests differ in some way, topics are varied, the number of questions, per request, also vary. The information requested is in most cases held in a number of different places within the authority. Application of the various exemptions can also be complex as well as understanding and applying the requirements of some of the other relevant legislation such as the Data Protection Act. It is difficult therefore to give an exact amount of time spent by officers of the council on dealing with FOI's. The Business Support Teams have a role in recording and coordinating requests but many other officers from across the council are also involved in retrieving the information requested and collating an overall response.
19. The receipt, acknowledgement and logging of a request takes on average 10 minutes. A further 10 minutes is spent at the end of the process, recording, filing and sending out the final response. Officers of the Council at various levels retrieve the information to collate the response. All responses currently receive Head of Service signoff with final signoff by a Corporate Director, before the information is made public. The gathering of the information and collation of a response is can take a minimum of 30 minutes up to 18 hours, which is a cut-off point and an exemption that can be used as part of the legislation.
20. Case study examples showing a variety of requests, acknowledgements, clarifications, use of exemptions and final responses are attached at **Appendix 3**. These show the level of involvement of officers and provide an understanding of the potential time taken in responding to requests.
21. The legislation allows for a right of appeal should a requester be dissatisfied with a response. In accordance with ICO guidance, an internal review is required of the response. This is conducted by an independent officer and can also take time depending on the complexity of the request. Requesters have the right to go to the Information Commissioner if they remain dissatisfied. Although few in numbers, further time can be spent collating information for the ICO case worker dealing with the complaint.
22. Information regarding numbers of requests, topics, and source of requests is detailed in **Appendix 4**. Intelligence provided by this analysis is used to improve procedures and practice across the Authority.

Next Steps/Key Areas to Explore

23. Members will note from the above that this is an area of constant review and improvement. A further report will be presented to members which provides detail on :

- Examination of where appropriate interpretation and use of the legislation might support managing demand.
- Current use of exemptions and whether there is any scope for more effective use/ application.
- Ongoing activity to support streamlining processes including impact of service reviews, review of policy, procedure and practice.
- The publication scheme and links to FOI's
- Examples of good practice elsewhere
- Examples of learning opportunities to be gained from FOI's

24. A series of recommendations as a result of this scrutiny work will also be included in the next report.

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Executive Scrutiny Committee

“Reporting In” Review – Freedom of Information Requests

Outline Scope

<p>Scrutiny Chair: Councillor David Harrington</p>
<p>Responsible Officer: Lesley King / Kate Fulton</p>
<p>Scrutiny Link Officer: Judith Trainer</p>
<p>Which of our strategic corporate objectives does this topic address?</p> <p>Council Plan Objectives –</p> <ul style="list-style-type: none"> Continuing to ensure we have strong corporate and ethical governance
<p>What are the main issues and overall aim of this review?</p> <p>Aim To provide members with an understanding of the requirements of Freedom of Information legislation, how the council currently manages FOI Requests, what potential and scope there is within the legislation that might better support our approach, share good practice examples and to consider recommendations for improvements to the way in which we manage requests.</p> <p>Key issues :</p> <ul style="list-style-type: none"> Volumes Complexity of requests Links to Media Enquiries. <p>There are links with Freedom of Information to the open government/ transparency agenda. The review will highlight the links and potential impact on volumes/ processes.</p>
<p>What are the key lines of enquiry:</p> <ul style="list-style-type: none"> Appropriate interpretation and use of the legislation to manage demand. Use of the exemptions, best practice with respect to use of exemptions. Volumes and Officer time spent on collating and responding to FOI's. Processes to record and respond to FOI. Publication and transparency Whether any records management learning opportunities can be gained which lead to further efficiencies. Whether learning opportunities are being sought as a result of the information gathered to respond to the initial requests Practice elsewhere

<p>Who will the Committee be trying to influence as part of its work?</p> <p>Central government , Cabinet, Council Services</p>
<p>Expected duration of review and key milestones:</p> <p>Scope – 15th September 2015 Baseline – 24th November 2015 Options and Recommendations – 16th December 2015 Cabinet – 11th February 2015.</p>
<p>What information do we need?</p> <p>(Background information, existing reports, legislation, central government documents, etc.):</p> <ul style="list-style-type: none"> • FOI Legislation • Transparency Regulations • Information Commissioner Advice and Guidance • Volumes and response timescales. • FOI Management Information • Process flowchart • Benchmarking, practice in other Local Authorities; good practice examples. • Central Government review
<p>How will this information be gathered? (eg. Financial baselining and analysis, benchmarking, site visits, face-to-face questioning, telephone survey, survey)</p> <p>Desktop Analysis, benchmarking.</p>
<p>Provide an initial view as to how this review could lead to efficiencies, improvements and/or transformation:</p> <ul style="list-style-type: none"> • Effective use of exemptions • Recommendations to the Parliamentary committee reviewing the legislation • Publication of information • Standardised approach • Managing demand.

