

Report of the Director of Governance

Corporate Governance Report

1. Summary

1.1 This report provides Members with updates in respect of:

- Annual Complaints Report April 2020 to March 2021
- Corporate Governance performance indicators
- Information Commissioners Office (ICO) decision notices
- Ombudsman cases from last report in July 2021 to date of this report
- Disclosure Log
- Investigatory Powers Commissioner's Office (IPCO) inspection

2. Annual Complaints Report April 2020 to March 2021

2.1 This report provides Members with the annual reports covering April 2020 to March 2021 in respect of:

- Adults social care
- Children's social care
- Corporate complaints

2.2 It includes:

- Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman Services (HOS) investigations
- Performance levels
- Themes
- Payments
- Costs of delivering the service

2.3 Points to note from the annual report are:

2.3.1 From the LGSCO annual letter and published performance for the reporting year are:

- 63% of all detailed investigation were upheld. This compares to an average of 63% in similar authorities. However when considered from all decided cases, it is 27% were upheld.
- In 100% of cases the Ombudsman was satisfied that the authority had successfully implemented their recommendations. This compares to an average of 99% in similar authorities, and sees an improvement on the previous year.
- In 17% of upheld cases, the Ombudsman found the authority had provided a satisfactory remedy before the complaint reached the Ombudsman. This compares to an average of 10% in similar authorities. In practice this means that although the Ombudsman found there had been fault, the authority had already acknowledged this and provided an appropriate remedy. The Corporate Governance Team (CGT) are currently reviewing the way it works with an aim to being able to increase the ability to identify and offer appropriate remedies where fault has occurred.

2.3.2 The main theme from the three complaints procedures are issues with the quality of communications. We are continuing our work with service areas to make sustained improvements through staff training and awareness sessions including how to improve customers' experiences and avoid unnecessary complaints or the escalation of complaints.

2.3.3 For complaints under the childrens social care procedure there was a reduced number of complaints received from 91 in the previous year to 55 complaints in 2020 to 2021. Also there was 1 complaint handled through the corporate complaints procedure for this service, compared to 12 in the previous year.

2.3.4 For complaints under the adults social care procedure there was a reduced number of complaints received from 53 in the previous year to 28 complaints in 2020 to 2021. Also there were 2 complaints handled through the corporate complaints procedure, compared to 4 in the previous year.

2.3.5 For complaints at stage 1 under the corporate procedure, there was a reduced number of complaints from 1262 in the previous year to 502 complaints at stage 1 in 2020 to 2021. However there was also 600 more comments logged and it is believed this was due to the contingency arrangements put in place at the beginning of the Covid 19 Pandemic, where cases were being picked up, responded to and resolved by the CGT before they became a complaint. These contingency arrangements allowed the CGT to investigate and respond

to comments and corporate complaints (i.e. not social care services) and reduce the cases where no response was sent. These arrangements were incorporated into the review of the corporate complaints policy and procedures and the implementation of the 4Cs (complaints, concerns, comments and compliments) in April 2021 and it is expected the improvements will continue.

2.3.6 Improvements were also made in the % of responses in time across all three stages from the previous year.

3. Corporate Governance Performance Indicators (previously headed as Information Governance and Complaints Performance)

3.1 The council publishes the performance data on timeliness for responding to requests made under Freedom of Information Act (FOI), Environmental Information Regulations (EIR) and Data Protection Act subject access to records requests (SARs), via the York Open Data platform via the link. [Datasets - York Open Data](#)

3.2 The internal system configuration changes, required to support the 4Cs policy, have now embedded and allowed for the development of the new datasets to support the ongoing reporting of corporate governance organisational performance. The datasets are in the final stages of development internally and, once completed, will include a regular external publication of information through York Open Data. This means that Committee and residents should be able to see the improved wider new datasets on publication in November. It will also enable us to provide more graphical presentation of reports to Committee and further updates will be provided in the next Corporate Governance report.

3.3 I have provided the performance figures for the period April to September 2021 – see Annex 2 - based on the updated set of performance indicators that was shared with Committee previously. These include complaints for corporate (from the “4Cs” implemented from April 2021), adults and children’s social care complaints and more areas of information governance.

3.4 There has been an improvement in % of in time performance across the majority of areas of information governance and complaints in this reporting quarter (Q2) compared to the previous quarter (Q1). We will continue to work with management teams and service areas across the council to improve and sustain this improved performance.

4. ICO decision notices

- 4.1 If someone is unhappy with the response they receive in relation to an FOI, EIR or SAR or if they want to raise a complaint under data protection legislation in relation to the rights of individuals, there is an opportunity to seek an internal review and then to complain to the ICO. The ICO publishes their decision notices and full reports on their website.
- 4.2 For this reporting period, 1st July 2021 to date of preparing this report on 8th October 2021, there are two published decision notices and the details are set out in Annex 3.
- 4.3 In both cases, the ICO found that the council had correctly withheld information and did not require us to take any further actions.
- 4.4 In one of the cases which was an EIR, the ICO stated the council had located and considered all of the information falling within the scope of the request, and that, on a balance of probabilities, no further information was held by the council. Also that whilst the council was correct in applying one of the Regulations (known as exemptions in FOIs) to withhold the information, it was incorrect in applying another and that we had not replied in the 20 day timescale. You will note from the details provided in Annex 3 that this ICO decision is under appeal.

5. Ombudsmen cases

- 5.1 Local Government and Social Care Ombudsman (LGSCO) decisions and recommended actions, from the last report to Committee in July, to the date of this report are shown at Annex 4. There were no Housing Ombudsman Services decisions during this time.
- 5.2 Of the seven cases determined by the LGSCO, five were closed after LGSCO's initial enquiries. One case was not upheld and one was upheld with recommendations and/or remedies shown in Annex 4 in the actions column.
- 5.3 The Corporate Governance Team work with the Corporate Management Team, Directorate Management Teams as well as with individual service areas to identify areas for improvement or shared learning opportunities from Ombudsmen cases.

6. Disclosure Log

- 6.1 The current format and style complies with the obligations of the FOI Act and Publication Scheme, to show requests we have received and responded to, that we feel may be of a wider public interest. This can be searched by individuals to see if the information they are looking for has already been asked for and responded to, and then they can either ask us for a copy of the response or make a new request.
- 6.3 It was introduced following complaints and criticisms of the previous style and format of presenting responses on the website and also to ensure that we comply with the website Accessibility Regulations.
- 6.4 In response to questions raised previously from Committee, there is a variety of styles and formats used by public authorities in order to comply with the FOI Act and Publication Scheme requirements which is in the public domain.
- 6.5 For example some responses may be published in full where the public authority has decided they may be of a wider public interest e.g. the ICO website [| Search | ICO](#) or similar/same style and format as we do [Freedom of information requests and open data | North Yorkshire County Council](#) or in other ways such as on the below links.
[Council data and information listings \(Publication Scheme\) \(leeds.gov.uk\)](#)
[Freedom of Information | Bradford Council](#)
[Freedom of Information FAQs - Business Rates | Bradford Council](#)
[Freedom of information | Kirklees Council](#)
- 6.6 I have included at Annex 5 the figures for the number of visits to the published disclosure log for your information.
- 6.7 I will continue to look into options and opportunities for other styles and formats for publishing our FOI Act and Publication Scheme requirements including any from renewing our current case management system in the Corporate Governance Team and keep you updated on the progress of this in future reports.

7. Investigatory Powers Commissioner's Office (IPCO) inspection

- 7.1 The IPCO carried out their programmed inspection of the council's use of directed surveillance and covert human intelligence sources (CHIS) and the acquisition of communications data on 27th August 2021 by way of a virtual meeting and submission of documents and evidence. The previous inspection was undertaken by way of a questionnaire in December 2018.

7.2 A report on the IPCOs findings and recommendations will be provided to Committee.

8. Consultation

Not relevant for the purpose of this report.

9. Options

Not relevant for the purpose of this report.

10. Analysis

Not relevant for the purpose of this report.

11. Council Plan

11.1 The council's corporate governance service offers assurance to its customers, employees, contractors, partners and other stakeholders that all information, including confidential and personal information, is dealt with in accordance with legislation and regulations and its confidentiality, integrity and availability is appropriately protected.

12. Legal Implications

The Council has a duty to comply with the various aspects of complaints, data protection, privacy and information governance related legislation.

13. Risk Management

The council may face financial and reputational risks if the information it holds is not managed and protected effectively or if it does not respond to complaints effectively. For example, the ICO can currently impose civil monetary penalties up to 20million euros for serious data security breaches and Ombudsmen can impose financial remedies. The failure to identify and manage information risks or respond to complaints effectively, may diminish the council's overall effectiveness and damage its reputation. Individual(s) may be at risk of committing criminal offences.

14. Recommendations

Members are asked:

- To note the details contained in this report.
- To provide any further feedback for future reporting

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Wards Affected: List wards or tick box to indicate all All

For further information please contact the author of the report

Annexes

Annex 1 – Annual Complaints Report March 2020 to April 2021

Annex 2 – Corporate Governance Performance Indicators

Annex 3 – ICO decision notices

Annex 4 – LGSCO cases

Annex 5 – Disclosure Log website information

Background Information

Not applicable