

Report of the Deputy Chief Executive and Director of Customer and Corporate Services

Information Governance

1. Summary

1.1 This report provides Members with updates in respect of:

- Information governance performance
- General Data Protection Regulation (GDPR)
- the NHS Digital audit

2. Information Governance Performance

2.1 The council publishes 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:

<https://data.yorkopendata.org/group/freedom-of-information>

Current performance information is provided in full at Annex 1.

2.2 The Council's performance for responding in time to both FOI and EIR enquiries continues to exceed the 90% target, which the ICO sets as an indicator for those authorities which may require attention.

2.3 This continues to be particularly impressive given the volumes of FOI/EIR enquiries shown below:

Year	Volume
2013/14	1384
2014/15	1864
2015/16	1670
2016/17	1719
2017/18 – April to Sept only*	849*

2.4 If someone is unhappy with the response they receive in relation to an FOI or EIR request there is an opportunity to seek an internal review and then to complain to the ICO. The ICO has published in total 36 decisions notices for City Of York Council dating back to May 2007. These are all available at

<http://search.ico.org.uk/ico/search/decisionnotice>

2.5 Since October 2016, there have been 7 published decision notices, 6 were not upheld by the ICO on behalf of the complainant against the council and 1 was upheld. The ICO's published details on these 7 cases are shown at Annex 2.

2.6 In the upheld case, the ICO agreed with the Council that disclosure of this information would prejudice the conduct of public affairs and that the Council were correct to engage the section 36 exemption. However, their view was that the public interest arguments for disclosure outweighed those for maintaining the exemption in this case.

2.7 The Council continues to maintain its significant performance improvements for in-time compliance with Data Protection Act subject Access to Records requests (SARs). This was a specific area that ICO auditors recommended we improve upon. Again, using the same methodology for in-time compliance as previous years, we have achieved an in time compliance of 85.71% for April to September 2017.

3. General Data Protection Regulation (GDPR)

3.1 GDPR becomes enforceable from 25th May 2018. We continue our work for readiness and preparedness to meet its requirements by the enforcement date of 25 May 2018. Having undertaken a relatively recent data protection audit and implemented an action plan the Council was better placed than many organisations to start to meet this new challenge. However, there is still considerable work to be done.

3.2 Our project action plan to ensure we are ready for next May covers the 3 phases below

Phase 1: Familiarisation and key building blocks

Phase 2: Guidance structure and mapping, process review and initial development of associated tools

Phase 3: Bulk guidance refresh/production and review

3.3 The ICO has made a readiness assessment tool available: <https://ico.org.uk/for-organisations/data-protection-reform/getting-ready-for-the-gdpr/>

Our current self assessment is that our overall rating is “*amber: partially implemented or planned*”.

4. NHS Digital – routine data sharing audit

4.1 Under the Health and Social Care Act 2012, the Health and Social Care Information Centre (HSCIC) also known as NHS Digital, has a legal duty to maintain the confidentiality, safety, security and integrity of all personal and patient data it holds and disseminates. Each dissemination of data is subject to a data sharing framework contract and data sharing agreement. Given its health and social care responsibilities the Council is a recipient of such information.

4.2 NHS Digital expects to audit recipients of NHS data, at least once in a three year period and the council was subject to a routine audit on Wednesday 22nd and Thursday 23rd November.

4.3 The scope areas of the data sharing audit were

- Information transfer

- Access control
- Use and benefits of data
- Data destruction
- Risk management
- Operational management and control.

4.4 NHS Digital publishes their audit report and recommendations and this is likely to be by the end of January 2018.

5. Consultation

Not relevant for the purpose of this report.

6. Options

Not relevant for the purpose of this report.

7. Analysis

Not relevant for the purpose of this report.

8. Council Plan

8.1 The council's information governance framework 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.

9. Implications

Relevant implications are set out in the body of the report

10. Risk Management

The council may face financial and reputational risks if the information it holds is not managed and protected effectively. For example, the ICO can currently impose civil monetary penalties up to £500k for serious data security breaches. The failure to identify and manage information risks may diminish the council's overall effectiveness. Individual(s) may be at risk of committing criminal offences.

11. Recommendations

Members are asked:

- To note the sustained performance levels
- To note the ongoing work required to ensure the Council meets its information governance responsibilities.

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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 – Performance scorecard
Annex 2 – ICO decision notices

Background Information

Not applicable