

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

Information Governance and Complaints

1. Summary

1.1 This report provides Members with updates in respect of:

- Information governance performance
- General Data Protection Regulation (GDPR) and Data Protection Act 2018
- NHS Digital Information Governance toolkit – annual assessment
- NHS Digital audit
- Complaints

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	1852
2018/19 – April to June only	554

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 publishes their decision notices and these are all available at

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

2.5 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 previously, we have achieved an in time compliance of 82.8% in Q1 April to June 2018.

2.6 There has been an increase of 175 FOIs, EIRs and SARs received in Q1 April to June 2018 compared to the same quarter last year. This may in part to be due to the increased awareness of individuals' rights following the publicity surrounding the introduction of the enforcement of the GDPR. For information, we are reporting under the SAR figures, all the requests made under the data protection rights of individuals e.g. right to be forgotten, right of data portability, etc. Work is underway to report on these in the KPI reporting tool and we will include any new reporting figures through this report going forward.

2.7 The internal audit into FOI responding and reporting is almost completed. We are finalising the actions to meet the recommendations made and we will bring this to a future meeting.

However we have improved the assurance level to “substantial assurance” from the previous internal audit report.

3. General Data Protection Regulation (GDPR) and Data Protection Act 2018

3.1 GDPR came into force on 25th May 2018. Having undertaken a relatively recent data protection audit and implemented an action plan the Council was better placed than many organisations to meet the new challenges.

3.2 Work undertaken across the council has included:

- Reviewing and updating privacy notices and ensuring they are accessible.
- Ensuring we know “what we have and what we do with it” – this is sometimes referred to as either an audit of personal data and its uses; or as a record of processing activities (ROPA). We are recording these through an intranet based tool as part of our information asset register (IAR).
- Reviewing and updating or putting in place, data sharing agreements. These are needed for when we share personal data both internally and externally, and include the record or evidence, of the purpose and lawful reason for the sharing. Work is underway to produce and monitor these using the “information sharing gateway”. This tool will be used across the Yorkshire and Humberside region. It is already used in many other regions and by different organisations, NHS, combined authorities, etc. City Of York Council is hosting one of the further demonstrations of the gateway at the end of the month.
- Embedding further the personal data breach management process and procedures to ensure we can report those breaches that meet the guidance for reporting to the ICO within 72 hours.
- Provision of guidance and improving awareness through use of elearning tool – MyLo - and sessions with teams, management teams and individuals e.g. on conducting data protection/privacy impact assessments.
- Updated the screening questions and checklists for data protection/privacy impact assessments (DP/PIAs). These help us to identify where these should be undertaken and support service areas, project boards etc to conduct

DP/PIAs and ensure there is a mechanism for managing progress through a risk management based approach.

- 3.3 We are underway with the Tier 1 registration for all Councillors. This is being done when the previous “data controller registration” with the ICO comes up for renewal.
- 3.4 Work is continuing to review and update our records management and retention schedules including working with the local City Archivist to meet digital preservation of records for archiving.
- 3.5 From the details recorded on the information asset register, we will be providing targeted training for those who have been identified as information asset owners (IAOs) and information asset administrators (IAAs). This will include the guidance provided from the National Archives.

4. NHS Digital – information governance toolkit – annual assessment

- 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. Given our health and social care responsibilities the council is a recipient and user of such information and we are required to undertake an annual assessment of our information governance controls, processes and procedures, known as the “IG toolkit”.
- 4.2 For 2018/19, this will change to NHS data security and protection toolkit which will provide an improved online tool for organisations to demonstrate compliance with the National Data Guardians data security standards. The council has been an early adopter of this new online tool and has worked with the NHS Digital project team on testing it, including reporting and presenting at national events e.g. with LGA etc on the improvements this new online tool provides especially for public authorities.
- 4.3 The overall assessment score for the council including Public Health is shown in the table below and highlights the improvement made since last year, including scoring level 3 in 3 new areas and maintaining level 3 in 14 areas.

Assessment	Stage	Level 2	Level 3	Total Req'ts	Overall Score
Version 14.1 (2017-2018)	Latest	11	17	28	86%
Version 14 (2016-2017)	Published	14	14	28	83%

5. NHS Digital – data sharing audit update

5.1 NHS Digital undertook a data sharing audit at City of York Council (CYC) -Public Health on 22 and 23 November 2017. It provided an evaluation of how the council conforms to the requirements of the data sharing framework contract and the data sharing agreement with respect to the provision of:

- Vital statistics service
- Primary Care Mortality database (PCMD)
- Office of National Statistics (ONS) – Births data

5.2 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.

5.3 NHS Digital published their audit report and recommendations at the end of January 2018. They assigned the following assurance ratings to these areas.

Information Transfer	Moderate assurance
Access Control	Moderate assurance
Data Use and Benefits	Moderate assurance
Risk Management	Substantial assurance
Operational Management and Control	Moderate assurance
Data Destruction	Moderate assurance

5.4 It was the Audit Team's opinion that based on evidence presented during the audit and the type of data being shared, there is low risk of a breach of information security, duties of care, confidentiality or integrity (including inappropriate access to or loss of data) provided by NHS Digital to the council under the terms and conditions of the data sharing agreements signed by both parties.

6. Complaints

6.1 The annual reports for adult and childrens social care and corporate complaints was provided to Corporate Scrutiny Management Committee. As this was after the deadline for submitting this deferred report, it will be shared with this Committee at the next planned meeting for information governance and complaints report.

6.2 The Local Government and Social Care Ombudsman (LGSCO) annual letter and review was published on their website at the end of July. The following is a change from the report submitted for the July meeting.

6.3 The LGSCO provides an annual review letter about the council covering April to March each year (*see Annex 2*). This includes tables presenting the number of complaints and enquiries received about the council and the decisions the LGSCO has made during the reporting period (*see Annex 3*). This is to help us assess our performance in handling complaints. It includes the number of cases where the LGSCO's recommendations remedied the fault and the number of cases where they decided we had had offered a satisfactory remedy during our local complaints process. In these latter cases the LGSCO provides reassurance that we had satisfactorily attempted to resolve the complaint before the person went to them.

6.4 The LGSCO dealt with 54 cases about the council in April 2017 to March 2018 and their decisions are shown below:

LGSCO decision	How many?	%* rounded down to whole number
Closed after initial enquiries	15	28%
Referred back for local resolution	11	20%
Advice given	1	2%
Incomplete/invalid	4	7%
Not upheld	10	19%
Upheld	13	24%
Total	54	100%

6.5 All decisions are published on the LGSCO website and this was sent out previously to all Directors.

<https://www.lgo.org.uk/Decisions/SearchResults?t=both&fd=0001-01-01&td=2018-08-02&dc=u%2B&aname=city%20of%20york&atype=C&sortOrder=descending&page=2>

Of the upheld decisions, there were 6 that included “financial redress”.

6.6 The information governance and complaint team continue to 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.

<https://www.lgo.org.uk/information-centre/councils-performance/council/York%20City%20Council>

7. Consultation

Not relevant for the purpose of this report.

8. Options

Not relevant for the purpose of this report.

9. Analysis

Not relevant for the purpose of this report.

10. Council Plan

10.1 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.

11. Implications

Relevant implications are set out in the body of the report

12. 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 20million euros 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.

13. Recommendations

Members are asked:

- To note the sustained performance levels
- To note the work already completed as well as the ongoing work required to ensure the Council meets its information governance and complaint handling and responding, 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 – LGSCO annual letter
Annex 3 – LGSCO decisions