

Audit and Governance Committee

19 July 2023

Report of the Director of Governance

Corporate Governance Report

1. Summary

1.1 This report provides Members with updates in respect of:

- Corporate Governance Team (CGT) performance indicators update
- Information Commissioners Office (ICO) published decision notices from the previous report in March 2023 to date of preparing this report on 4th July 2023
- Ombudsmen update including Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman Service (HOS) cases from the previous report in March 2023 to date of preparing this report on 4th July 2023
- LGSCO annual letter and performance
- Covert surveillance training at September Committee

2. Corporate Governance Performance Indicators Update

2.1 The performance indicators report at Annex 1 is intentionally blank as the deadline for submitting this Committee report is before the completion of the validation and publication of these performance indicators. They will be available in full on York Open Data at <https://data.yorkopendata.org/group/transparency> and includes the indicators linked to the Council Plan – see below

- % Of Grade 1 4Cs Complaints responded to 'In Time' – which is available at <https://data.yorkopendata.org/dataset/kpi-ig22a>
- FOI & EIR % Requests responded to In time - (YTD) – which is available at <https://data.yorkopendata.org/dataset/kpi-foi02-01>

2.2 Complaints about council services are dealt with under the council’s corporate procedure for Complaints, Concerns, Comments and Compliments (the 4Cs). This procedure was designed using the guidance and good practice specified in the statutory procedures and by the Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman Service (HOS).

2.3 The below table shows the figures for corporate complaints in Quarter One for April to June 2023. Though there has been a decrease in the number of both grade 1 and grade 2 corporate complaints received compared to the previous years, we continue to maintain an improved %, being responded to in time compared to previous two years. The CGT continues to work across the council to maintain this improvement.

Corporate Complaints	Number	in time		out of time	
April to June 2023	323	291	96.40%	11	3.60%
April to June 2022	512	480	94.10%	30	5.90%
April to June 2021	279	157	56.30%	122	43.70%

2.4 Complaints about adult and children’s social care services are dealt with under two separate pieces of legislation:

- The Children Act 1989 Representations Procedure (England) Regulations 2006
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

2.5 The figures for adults and children’s social care complaints covering Quarter One April to June 2023 alongside the figures for the same reporting period for 2021 and 2022 are shown in the tables below. You will be able to find year to date / YTD (cumulative) and quarterly figures for timeliness of responses to adults and children’s social care complaints when these are validated and published on York Open Data.

Adults Social Care complaints	Number		
	Received	In Progress	Complete
April to June 2023	10	6	4
April to June 2022	7	0	7
April to June 2021	11	1	10

Children's Social Care complaints	Number		
	Received	In Progress	Complete
April to June 2023	11	4	7
April to June 2022	13	0	13
April to June 2021	12	0	12

2.6 The CGT continue to work closely with managers to provide additional targeted support and guidance where we have identified areas for improvement.

2.7 The below tables shows the figures for FOIs (Freedom of Information Act requests), EIRs (Environmental Information Regulation requests) and SAR (subject access to records request) covering Quarter One April to June 2023 alongside the figures for the previous two years.

	FOI	in time		out of time	
April to June 2023	143	114	79.7%	29	20.3%
April to June 2022	176	149	85.10%	26	14.90%
April to June 2021	258	194	75.20%	64	24.80%

	EIR	in time		out of time	
April to June 2023	168	159	94.60%	9	5.40%
April to June 2022	156	129	82.70%	27	17.30%
April to June 2021	133	107	80.50%	26	19.50%

	SAR	in time		out of time	
April to June 2023	30	22	75.90%	7	24.10%
April to June 2022	37	24	64.90%	13	35.10%
April to June 2021	34	18	52.90%	16	47.10%

2.8 Improvements have been made in number of EIR and SAR requests being responded to in time in Quarter One this year compared to previous two years. Whilst there has been a fall in the number of FOI requests being responded to in time compared to the same period last year, there is an improvement compared to 2021. The fall compared to last year, may in part be due to the availability of staff across the council in the lead up to the election.

2.9 We continue to work with internal audit to provide improved quality assurance and monitoring of FOI, EIR and complaint responses which will assist the Corporate Governance Team (CGT) to identify in a timelier way, specific support, and guidance to managers across the council. We will provide an update on this work in the full year report for Corporate Governance which will come to the relevant future Committee.

3. ICO published decision notices

- 3.1 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.
- 3.2 From date of previous report to preparing this report on 4th July 2023, there has been one published decision notice. The summary is shown at Annex 2 and the full report from the ICO on this case can be found at [ic-223708-t2p4.pdf \(ico.org.uk\)](https://ico.org.uk/what-we-does/our-work/decisions/decision-2023-0001)
- 3.3 The ICO found we had correctly applied section 42 to the request and did not require us to take any further steps.
- 3.4 We continue to meet at least twice a year with the ICO's Group Manager – FOI Casework. In our latest discussion, it was confirmed that the ICO had received 21 cases for CYC regarding FOI/EIR in their reporting period for 2022/23.

4. Ombudsmen update

- 4.1 There were 10 Ombudsmen decisions – see Annex 3 – since the last report to Committee which are
- 1 Housing Ombudsman Services decision (HOS)
 - 9 Local Government and Social Care Ombudsman (LGSCO)
- 4.2 Of the 10 cases determined by the Ombudsmen, the decisions were:
- 5 were closed after initial enquiries with no further action
 - 1 was closed as out of the jurisdiction of the LGSCO as the complaint was late
 - 1 was closed as it was premature

- 2 were upheld with fault and injustice and 1 as maladministration with recommendations and/or remedies. Details of the recommendations and /or remedies are shown at Annex 3.

4.3 The CGT undertakes ongoing work with the Corporate Management Team, Directorate Management Teams as well as with individual service areas to ensure that we share learning opportunities across the council and to identify areas for improvement from Ombudsmen cases.

5. LGSCO annual letter and performance

5.1 It is expected that both the annual letter from the LGSCO and their publication of all councils' performance information [Councils' performance - Local Government and Social Care Ombudsman](#), will be after the date of this Committee meeting. Therefore we will provide this Committee with a report at a future meeting.

6. Covert surveillance training for Committee

6.1 Training will be provided before the September meeting to enable your oversight of the council's use of covert surveillance, acquisition of communications data and use of a Covert Human Intelligence Source (CHIS). This will be a high-level overview of the legislation e.g. Regulation of Investigatory Powers Act 2000 (RIPA) and Investigatory Powers Act 2019 (IPA), the powers available to the council, the oversight expectations of the Committee and time for questions and discussions.

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 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.

11. Legal Implications

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

12. Risk Management

12.1 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 for serious breaches and / or take enforcement actions. Ombudsmen can impose financial remedies and/or individuals may be at risk of committing criminal offences. The failure to identify and manage information risks or respond to complaints effectively, may diminish the council's overall effectiveness and damage its reputation.

13. Recommendations

13.1 Members are asked:

13.1.1 To note the details contained in this report.

13.1.2 To provide any comments or feedback from this report.

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Report Approved Date 4th July 2023

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

For further information please contact the author of the report

Annexes

Annex 1 – Blank Corporate Governance performance indicators

Annex 2 – Information Commissioner's Office (ICO) published decision notice

Annex 3 – Ombudsmen decisions

Background Information
Not applicable