

Report of the Director of Customer and Corporate Services

Information Governance Report

1. This report provides Members with updates or reports for :

- Information Governance Performance
- the new General Data Protection Regulation (GDPR)
- compliance with the Local Government Transparency Code 2015 (LGTC 2015) and an overview of the code for smaller public authorities.
- the Health and Social Care Information Centre (HSCIC) Information Governance Toolkit (IG Toolkit) update.

2. Information Governance Performance

The establishment of the team in 2015 has contributed to significant improvements in information governance. Prior to this the Council was under close scrutiny by the ICO due to poor performance on FOI responses. In 2013/14, 81% were responded to in time. At that time performance below 85% was considered to warrant monitoring. Since the team was established performance has been consistently above 90%. This is particularly impressive as volumes of FOI/EIR are rising again as shown below:

Year	Volume
2013/14	1384
2014/15	1864
2015/16	1670
2016/17	1719

The provision of good quality and timely information on responses has clearly been an important factor in this improvement. However we cannot rest on our laurels though, as the ICO has recently indicated that the threshold for monitoring will be raised to 90%.

Alongside this, the volume of complaints made to the ICO has risen but those upheld on behalf of the complainant, by the ICO has fallen. In the current year only one complaint has been upheld - relating to a late response. Four

and seven were upheld in the previous years. There have been some significant successes with the Council's application of the vexatious exemption being upheld by the ICO. The work required by the team to demonstrate this, cannot be underestimated.

<https://search.ico.org.uk/ico/search?q=decision+notices>

We have also made 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 achieved in-time compliance for April 2016 to March 2017 of 83.96%.

Please see annex 1 for the full year performance report.

We continue to offer advice and support to schools' following the information governance internal audit and recently provided training for school governors. For reference, the council is not accountable or responsible for compliance by schools, with the DPA and other information governance, transparency and privacy legislation and so, the council would not incur any sanctions or penalties from the ICO if there was a breach or failure by schools to comply with the DPA, FOI, etc. This is because all schools are their own registered data controller, and are accountable and responsible for their own compliance with the different legislation and would incur directly any sanctions or penalties from the ICO if they were found to have breached or failed to comply with the DPA, FOI, etc.

3. The new General Data Protection Regulation (GDPR)

We are working to ensure arrangements are in place to prepare for and meet the requirements of the GDPR across all services by 25 May 2018. This includes:

- Using the ICO's checklist and other resources
- Using the new guidance and other tools as they are released from the ICO
- Using guidance from the Article 29 Working Party that is produced at the European level
- Working closely with other authorities and organisations in the Yorkshire and Humberside region to share knowledge about implementation in our sector.

Failure to prepare leading to compliance failures could have serious consequences for the council corporately, including substantial fines. It may be helpful at this time, to note that many of the ICO audit recommendations and actions, as well as the areas the ICO auditors picked up as areas of good practice at the council, had the GDPR in mind.

Using the ICO's key points in preparing for the GDPR we have developed a project plan covering 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

We have completed the ICO's "readiness" assessment and based on that, our overall rating is "*amber: partially implemented or planned*". You can find out more about the ICO's assessment at:

<https://ico.org.uk/for-organisations/data-protection-reform/getting-ready-for-the-gdpr/>

4. Compliance report and update on the Local Government Transparency Code 2015 (LGTC 2015)

The council meets its requirements by publishing information on either the relevant website pages or through the York Open Data platform. The link to the LGTC 2015 information on the YOD platform is:

<https://www.yorkopendata.org/>

We report and monitor compliance with the requirements of the LGTC 2015 – see below link for full requirements:

<https://www.gov.uk/government/publications/local-government-transparency-code-2015>

throughout the year via the Governance, Risk and Assurance Group (GRAG). Annex 2 provides you with information on our current compliance for your information.

As yet, there is no further information on when any changes to update the LGTC 2015 will happen, following the Government's consultation on the proposals to update it. Any changes will require secondary legislation to revoke the existing code and put a new updated code in place.

5. Health and Social Care Information Centre (HSCIC)

The council has to undergo assessment to attain the appropriate level of assurance to be able to use certain Health service systems. The IG Toolkit is a Department of Health (DH) Policy delivery vehicle that HSCIC is commissioned to develop and maintain. It draws together the legal rules and central guidance set out by DH policy and presents them in a single standard as a set of information governance requirements.

We retained the required level of assurance this year (Version 14) – see below:

Overall								
Assessment	Stage	Not Yet Answered	Level 0	Level 1	Level 2	Level 3	Total Req'ts	Overall Score
Version 14 (2016-2017)	Published	0	0	0	14	14	28	83%

An action plan is being completed and will be monitored through the Governance Risk and Assurance Group

6. Consultation

Not relevant for the purpose of this report.

7. Options

Not relevant for the purpose of this report.

8. Analysis

Not relevant for the purpose of this report.

9. Council Plan

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.

10. Implications

Relevant implications are set out in the body of the report

11. 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 impose civil monetary penalties up to £500k for serious data security breaches (this may be increased following the signing of the General Data Protection Regulation (GDPR)). 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. For example, under section 55 and/or section 61 of the Data Protection Act (DPA) 1998

12. Recommendations

Members are asked:

- To note the sustained performance levels
- To note the ongoing work required

Reason: To ensure the Council meets its information governance responsibilities.

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Report
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Wards Affected: List wards or tick box to indicate

All

For further information please contact the author of the report

Annexes

Annex 1 – April 2016 to March 2017 full year performance report
Annex 2 – Compliance report for LGTC 2015

Background Information

Not applicable