

Audit & Governance Committee Report

Request Management

28 September 2021

1. Introduction

The requests management team, in the Information Management Service, is responsible for ensuring the council meets its statutory obligations with regard to request management, but relies on timely engagement with service areas in order to do so. These fall into two categories:

- Freedom of Information (FOI) and Environmental Information Regulation (EIR) Requests
- Subject Access Requests.

Over recent years, the council has seen a steady continuation of Freedom of Information (FOI) / Environmental Information Regulation (EIR) requests, with an increase in complexity. These requests often include a large number of questions, spanning multiple years, which may require clarification and refining in order to process. Requests can seem repetitive, however they often have a different slant. As a result, even when they relates to information that is already publicly available, often questions still require a specific and bespoke response. The nature and number of requests is also influenced by national and local issues dominating the news.

There has been a rise in the number of subject access requests (SARs) being made under the General Data Protection Regulation (GDPR). Many service users request this right as a tool to better understand decisions made that directly affect them and, on occasion, to hold the council to account. While we receive fewer SARs than FOI requests, the volumes of information involved can be immense and as a result, resource-intensive to deal with. Nevertheless, they should be seen as a key part of the ongoing relationship between the council and its service users.

Most of the cases and information being assessed results from an individual's contact with social care, often over a long period of time. However, the bulk of activity increasingly falls to the corporate team, who are required to undertake the professional assessment and redaction of information prior to release. Recent work indicates that it is becoming more common for requests to involve over 2,000 pages requiring assessment and redaction. Two recent requests consist of around 100 records centre files of information each, which on their own would use more than the available resource for the remainder of the year to complete, and cannot by law be refused or refined.

The statutory framework is summarised below, but information request officers also need to take into consideration related statutory instruments and the wider statutory framework that the council is subject to, such as any prohibitions on disclosure set out in service specific legislation.

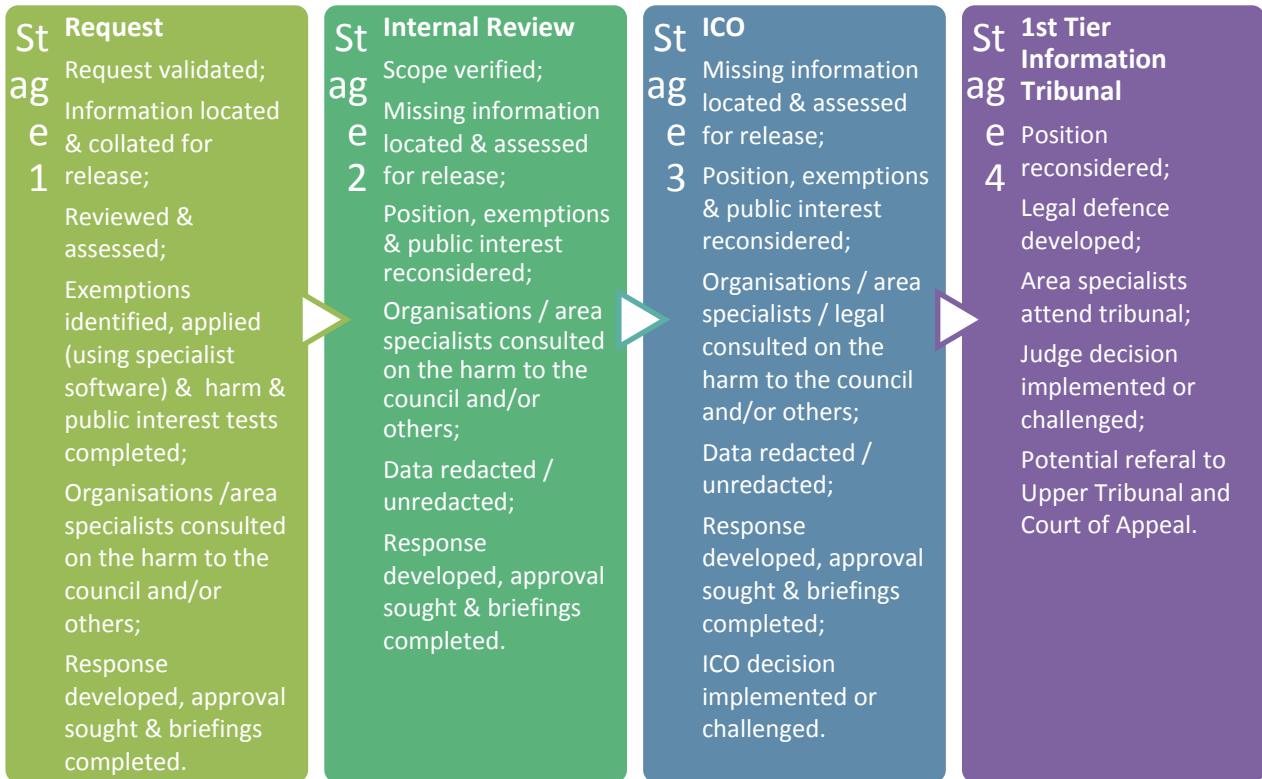
Table 1: Overview of the legislation

	FOI	EIR	GDPR
Known as	Request for Information	Request for Information	Subject Access Request
Scope	All recorded information.	Recorded information relating to the environment and environmental matters.	Personal data.
How achieved?	Proactive release of information. Responding to requests.	Proactive release of information. Responding to requests.	Responding to requests for information.
Who does it apply to?	Anyone	Anyone	Individual has right to access their own data or someone else's with proof of eligibility.
Exemptions	Exemptions may apply. Some require a public interest test - can extend deadline to 40 working days.	Exceptions may apply. All require a public interest test - can extend deadline to 40 working days.	Exemptions may apply. No public interest required. Some need to be agreed with a health/social care professional.
Format	Must be in writing. Does not need to mention FOI.	Verbally or in writing. Does not need to	Verbally or in writing. Need to verify ID & eligibility, where

		mention EIR.	applicable. Does not need to mention DPA.
Statutory Timescales	20 working days	20 working days	1 calendar month, with further 2 month extension in complex cases.

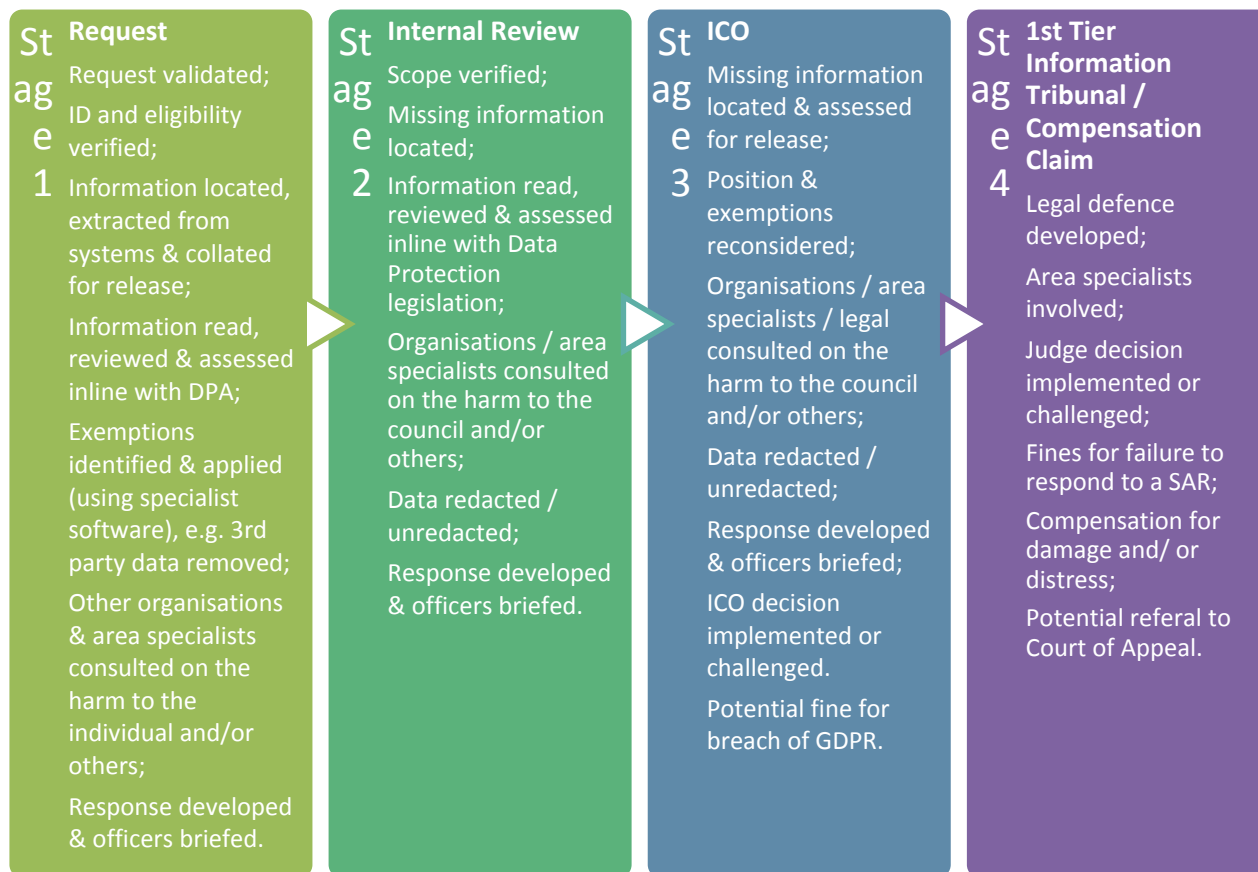
2. FOI / EIR Request Process

Diagram 1: The stages of the FOI/EIR process



3. Subject Access Request Process

Diagram 2: The stages of the SAR process





4. Numbers Received

Freedom of Information / Environmental Information Requests

Having seen a large increase in numbers received for many years the council now generally receives around 1600-1700 FOI/EIR requests per year.

Table 2: Number of requests received by financial year

	2019/20	2020/21
FOI / EIR	1536	1246 
SAR	398	420 
TOTAL	1934	1656

As this report has been adjusted to reflect financial year (previous reports were calendar year) the Jan-Mar 2020 figures are included in table 3 below. These were not in the previous annual report, which reported on the 2019 calendar year.

Table 3: Number of requests received in last quarter of 2020 compared with last quarter of 2021

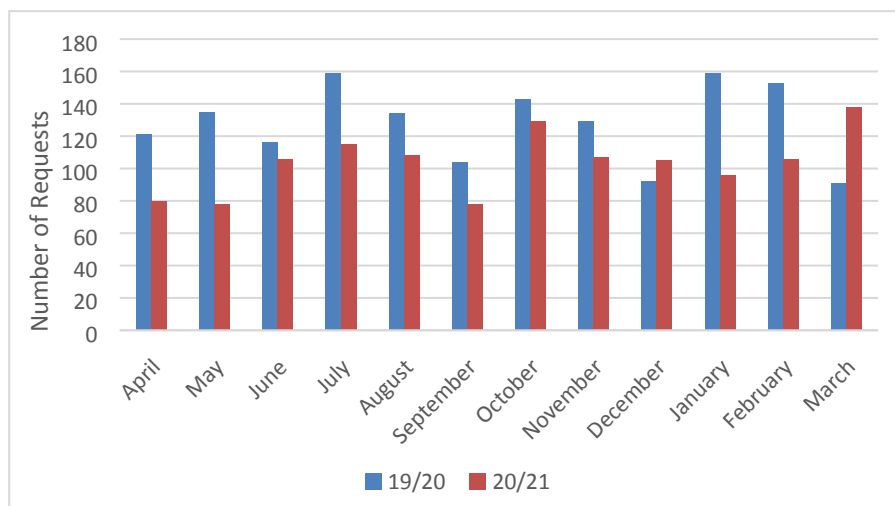
	Jan-Mar 2020	Jan-Mar 2021

FOI / EIR	403	340
SAR	106	139
TOTAL	509	479

As can be seen in graph 1 there was an unusual and significant drop in the numbers received during parts of the COVID-19 pandemic.

There is now starting to be a steady increase in FOI requests received, but numbers still remain slightly lower than the pre-pandemic period.

Graph 1: Number of FOI / EIR requests received



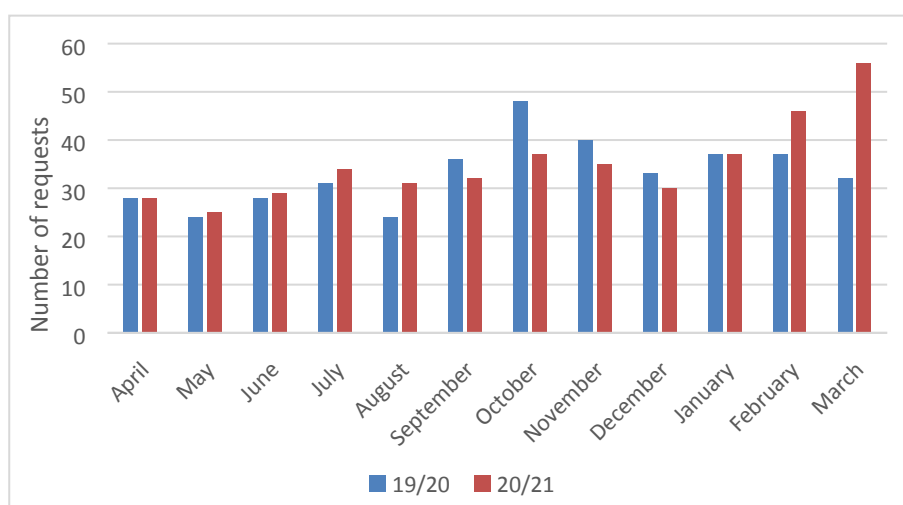
Subject Access Requests

Whilst there was a corresponding dip in the number of SARs received during parts of the pandemic, the numbers did not fall at the same rate as FOI/EIR requests.

The number of SARs received is now increasing, with the monthly average of requests increasing from 33 per month in 2019/20 to 35 a month in 2020/21.

March 2021 produced a new record for the number of requests received in a single month with a total of 57. Early indications for 2021/22 are that the increase is continuing.

Graph 2: Number of Subject Access Requests (SAR) received



5. Performance

The council responded to 73% of all requests with the statutory timescales in the last financial year (20/21), compared with 82% in the previous 12 months – a 9% reduction.

Whilst numbers received dropped during the pandemic there hasn't been a correlating improvement in performance. The process is highly dependent on service areas providing information in response to requests and during this unprecedented period they have seen unusually high and differing demands on their time.

The council has seen a sustained increase in the complexity of requests; over the past 2 and a half years this has significantly been the case for SARs, which in turn has contributed to a steady decline in overall performance, as shown in graph 3.

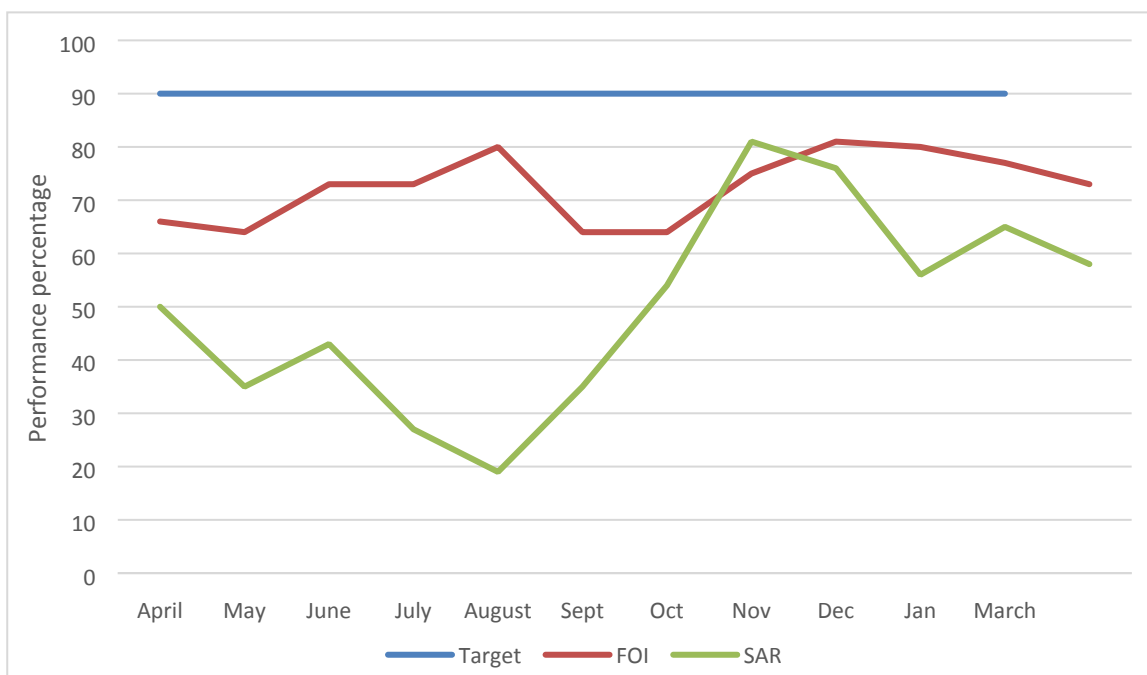
The increase in the resource-intensive SARs has contributed to the drop in overall performance. However, this has been compounded by a number of other factors which include:

- Capacity, capability and stability of the central team.
- Capacity, capability and stability of those otherwise engaged with the process (e.g. collating information and social work professional review for potential harm);
- The central team increasingly taking on more elements of the process;
- Availability of historical records;
- Accessibility to paper records during the COVID 19 'lockdown' contributing to a backlog of cases;
- The ongoing build up of a backlog of overdue complex cases;
- Unreliability of technology.

In response to poor performance rates, a comprehensive review of the corporate team's capacity was undertaken, with additional permanent and temporary resource allocated to the team. The first of these additional resources was in place in September 2020, contributing to the improvement in performance that can be seen in Graph 3, and helping move the council towards the national target of 90% on time, set by the Information Commissioner's Office.

In order to improve corporate oversight, quarterly performance reports are presented to the Councils Information Board and additional reporting is included with the strategic corporate performance framework.

Graph 3: Percentage of requests responded on time (FOI / EIR and SAR cases closed) in 2020/21



6. Proactive Publication

One of the ways in which the council aims to reduce the number of information requests is to proactively publish information on its website. As well as working with services to improve the information on their web pages, such as publishing Covid19 school data proactively, the council has also made the following improvements over the past few years:

- Populating a disclosure log of responses to previous requests;
- Maintaining up to date 'Transparency' web pages; and
- Updating our external webpages with additional guidance and clarity on the Information Rights requests process, including new guidance in relation to formulating an effective internal review request.

However, these have not had a discernible impact on the number of formal requests received, but may go some way to explaining why the overall level of complexity of requests has increased.

7. Improvement work

Feedback from customers, complaints, quality reviews, other council departments and external regulators (including the Information Commissioner's Office (ICO)) is used to drive improvement.

Due to concerns about performance, urgent and immediate action was taken to fill vacancies and build capacity in the core team, both permanently and on a temporary basis. The impact of which can be seen within our performance, which has improved since September 2020, but peaked in November 2020. The subsequent further increase in demand continues to threaten that performance so is being kept under close review.

Freedom of Information / Environmental Information Requests

In August 2020 the council participated in a consensual audit by the ICO, achieving reasonable assurance. As a result of the ICO recommendations a comprehensive action plan in relation to FOI has been developed with implementation ongoing. Completed actions include:

- Updated Freedom of Information policy which has been circulated to all staff;
- Updates to job descriptions to ensure that all responsibilities for FOI/EIR and compliance with them are formally documented, ensuring that staff are aware of their responsibilities and there is accountability in place for FOI and EIR compliance;
- Increased all staff communications so that staff have good awareness of the Acts requirements and compliance with legislation
- Implementing a system of dip-sampling responses that have not been subject to review prior to release, to assess the appropriate use of exceptions, exemptions, refusal and redactions to ensure the use of each is appropriate and accurate and provide assurance and oversight of the quality of work carried out

Next priority actions include:

- Review of the FOI champion role and responsibilities to ensure business areas are resourced for operational staff to be available to support FOI requests;
- The completion of a FOI handbook, covering all aspects of request processing.

Subject Access Requests

Recently implemented improvements include:

- Improved joint working with Children's Services to continue to work together for the benefit of the individual, including the use of proactive information sharing as standard practice to lessen the burden of formal SARs;
- Improved and ongoing communication with requesters to clarify requests, for a more clearly refined scope and to provide updates on case progression;

- Guidance on the use of and standardisation to the redaction process;
- Upskilling of more staff to undertake weekly case reviews;
- Development and implementation of a training plan for all Information Officers, to ensure regular and refresher training and development; and
- New process guidance for requestors developed and published on the website.

Next priority actions include:

- Creation of a new process to support large Children's SARs, to support joint working with Children's Social Care.
- The completion of a SAR handbook, covering all aspects of request processing.

Jo Baynes-Kubiak, IMS Team Manager – Requests
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September 2021