

# Audit & Governance Committee Report

## Request Management

### 22 July 2022

## 1. Introduction

This report provides information on requests for information received and responded to in 2020/21.

The requests management team, in the Information Management Service, is responsible for ensuring the council meets its statutory obligations regarding request management but relies on timely engagement with service areas 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 to process. Requests can seem repetitive; however, they often have a different slant. As a result, even when they relate 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) 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 prolonged period of time. However, the bulk of activity 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 requests consist of around 100 records centre files of information each, which on their own would use more than the available resource for several more months 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*

	<b>FOI</b>	<b>EIR</b>	<b>GDPR</b>
<b>Known as</b>	Request for Information	Request for Information	Subject Access Request
<b>Scope</b>	All recorded information.	Recorded information relating to the environment and environmental matters.	Personal data.

<b>How achieved?</b>	Proactive release of information. Responding to requests.	Proactive release of information. Responding to requests.	Responding to requests for information.
<b>To whom does it apply?</b>	Anyone	Anyone	Individual has right to access their own data or someone else's with proof of eligibility.
<b>Exemptions</b>	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.
<b>Format</b>	Must be in writing. Does not need to mention FOI.	Verbally or in writing. Does not need to mention EIR.	Verbally or in writing. Need to verify ID & eligibility, where applicable. Does not need to mention DPA.
<b>Statutory Timescales</b>	20 working days	20 working days	1 calendar month, with further 2-month extension in complex cases.

## 2. Numbers Received

### Freedom of Information / Environmental Information Requests

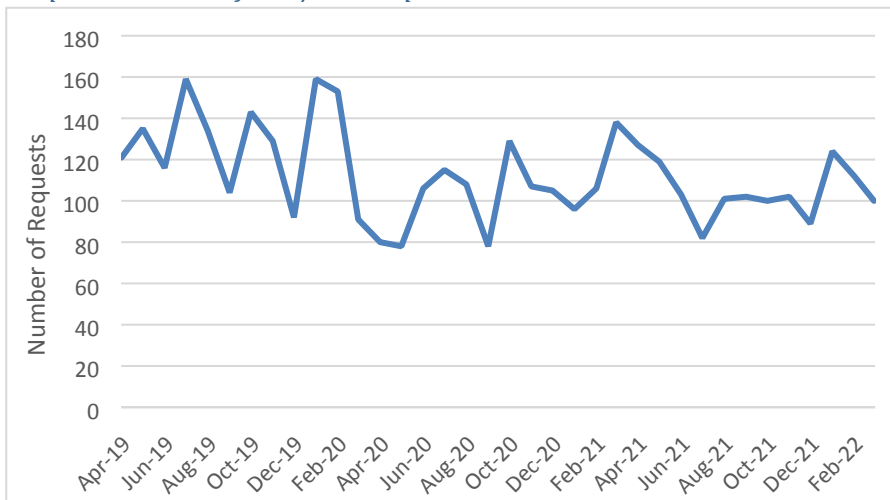
Having seen a substantial increase in numbers received for many years, the council now generally receives around 1600-1700 requests per year.

*Table 2: Number of requests received by financial year*

	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>
<b>FOI / EIR</b>	1536	↓ 1246	↑ 1261
<b>SAR</b>	398	↑ 420	↑ 424
<b>TOTAL</b>	<b>1934</b>	<b>1656</b>	<b>1685</b>

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. Numbers have started to increase with the removal of pandemic restrictions, but the number received in 2021/22 remains similar in number to 2020/21 and has not returned to pre-pandemic levels.

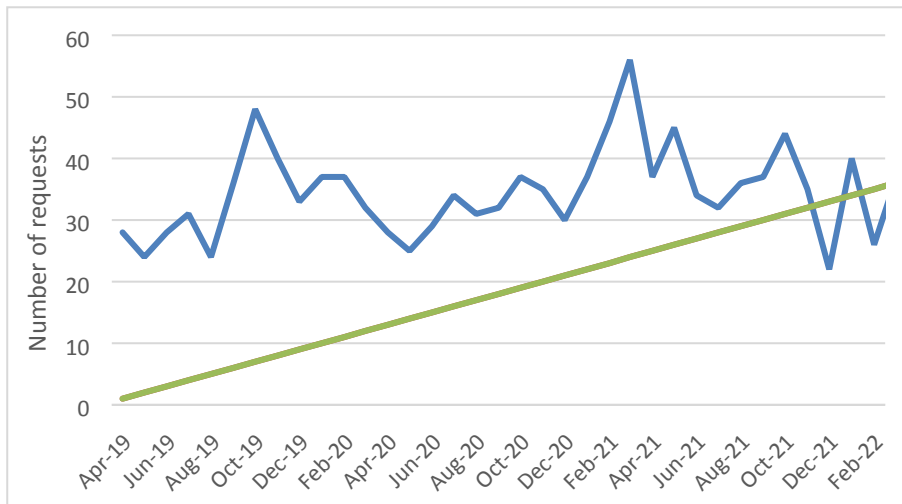
*Graph 1: Number of FOI / EIR requests received*



## Subject Access Requests

The number of SARs received has remained at the increased numbers seen in 2020/21. The monthly average of requests also remains at the increased level of 35 a month.

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



## 3. Sources and topic of FOI requests

Graph 6: Number of FOI requests by type of requester for the period 2021/22.



The source of requests remains consistent, with most requests being submitted by members of the public, followed by companies/commercial organisations and then the media.

Whilst the council cannot ask for a reason for the request, it is believed that many of the requests from companies/commercial organisations are in relation to marketing of their products or for compiling contract lists for a marketing purpose. Managing these requests can be time consuming, as they usually contain a large number of questions for

multiple service areas, for example the contract cost, duration and number of licences for software used by HR, Finance, and ICT. These requests are usually generalised, as they are sent to many public sector organisations, without having undertaken prior research to locate publicly available information.

To manage these requests more effectively, officers are encouraged to seek clarification from the requester early on. At this time requesters are informed of the fees limit where it believed this is likely to apply. Requesters are also directed to the publicly available web information regarding contracts. This approach means that the requester is either satisfied with this approach or can choose to subsequently refine their request, asking for specific information that is not readily available, reducing the burden on the council in responding to their initial more complex request.

The most common topics requests are received about are:

- Highways, e.g., potholes, site history reports, road, and footpaths (229 requests)
- Children and Families, with c.75% of these relating to social care (150 requests)
- Adults and Public Health, with c.67% of these relating to social care (142 requests)
- There were 15 requests marked as Covid19 related.

Other requests are quite evenly spread across service areas.

#### 4. FOI exemptions

The most commonly used exemptions are:

- Section 21(1) information reasonably accessible by other means (47% of exempt requests),
- Section 40(2) personal data of an individual other than the requester (43% of all exempt requests)

The remaining requests were fairly evenly spread across a number of exemptions, see below.

<b>Exemption</b>	<b>Number of requests</b>
Section 21(1) information reasonably accessible by other means	169
Section 40(2) personal data of an individual other than the requester	156
Section 43(2) commercial interests	15
Section 31(1)(a) law enforcement the prevention and detection of crime (these requests relate to	9

cyber security and empty properties)	
Section 30(1)(a) investigations and proceedings conducted by public authorities	1
Section 41(1)(a) information provided in confidence	3
Section 22(1)(a) information intended for future publication	6
Section 38(1)(a) health and safety	1
Section 39(1)(a) Environment information	1

## 5. Performance

Overall, the council responded to 76% of all requests with the statutory timescales in the last financial year 2021/22, compared with 73% in the previous year, a 3% increase.

FOI/EIR performance has remained steady at around 80% of requests responded to on time in 2021/22.

SAR performance over the year was 51%.

The sustained increase in the complexity and number of SARs received has continued to impact our overall performance. The process is highly dependent on service areas providing information in response to requests and even with improvements in this process, as well as having sufficient capacity within the Request Management Team to be able to undertake the professional assessments and redaction.

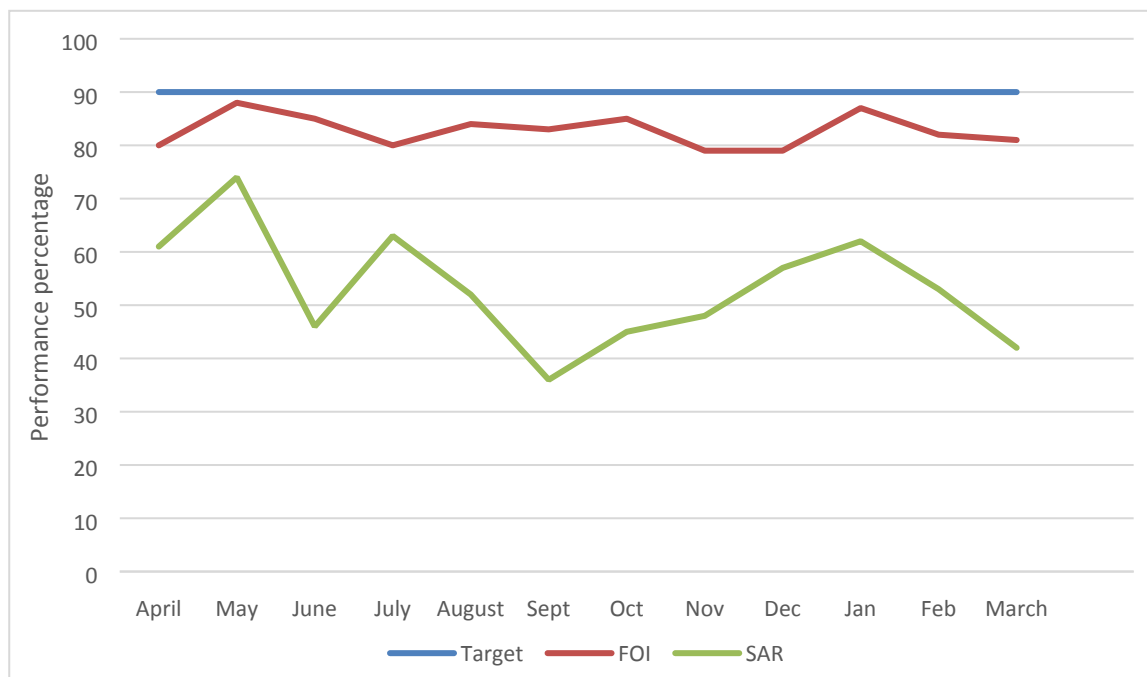
The council has seen a sustained increase in the complexity of requests; over the past 3 and a half years this has significantly been the case for SARs, which in turn has contributed to a steady decline in overall performance, as shown in graph 3. However, this has been compounded by a number of other 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 ongoing build-up of a backlog of overdue complex cases and the implications of the pandemic.
- Unreliability of technology.

Following a comprehensive review of the process and corporate team's capacity, additional permanent and temporary resource was allocated to the team. The first of these additional resources was in place by September 2020.

Corporate oversight continues within ongoing quarterly performance reports presented to the council's Information Board and additional reporting has been included in the strategic corporate performance framework.

Graph 3: Percentage of requests responded on time (FOI / EIR and SAR cases closed) in 2021/22



Graph 4: Number of requests received, performance percentage, internal reviews received and ICO complaints received.

	2021									2022		
	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March
<b>FOI received</b>	126	117	103	81	97	102	95	103	88	117	113	99
<b>FOI on time</b>	94	105	91	98	70	96	64	65	73	84	86	85
<b>FOI performance</b>	80%	88%	85%	80%	84%	83%	85%	79%	79%	87%	82%	81%
<b>SAR received</b>	35	43	34	33	34	36	44	35	21	32	25	36
<b>SAR on time</b>	17	17	12	17	11	8	9	11	12	8	9	10
<b>SAR performance</b>	61%	74%	46%	63%	52%	36%	45%	48%	57%	62%	53%	42%
<b>Internal reviews received</b>	0	0	2	5	2	3	4	2	0	0	2	5
<b>ICO received</b>	0	1	0	1	1	1	2	0	1	0	2	0

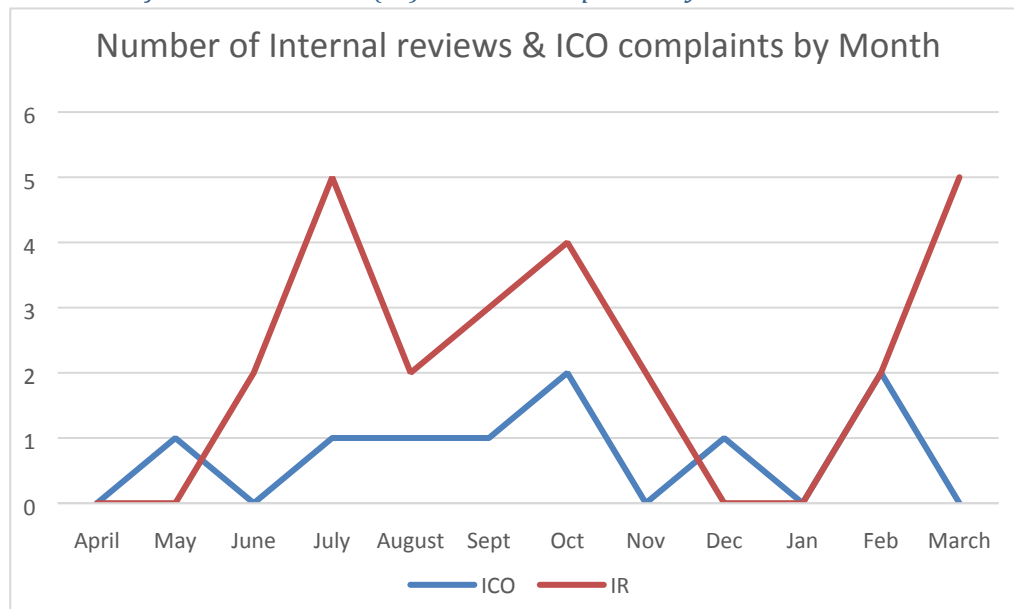
## 6. Reviews and escalation to ICO

Once a response has been issued, the requester has the right to ask for an internal review. The internal review focuses on the areas the requester is unhappy

with. In most cases this is that information has been withheld and they feel it should have been provided.

Once the internal review has been completed, the requester can raise a complaint with the Information Commissioners office (ICO), if they remain unsatisfied with the council's response. The ICO will review the complaint and advise of any actions they require to resolve the issues raised.

*Chart 5 - Number of Internal Reviews (IR) and ICO complaints by month*



Out of the 1685 requests received in 2021/22, there have been 25 internal reviews (1.5%) and 9 ICO complaints (0.5%).

15 internal reviews related to FOIs and 10 to SARs.

The FOI internal reviews focussed on:

- Information not being publicly available/use of council datasets
- Requests being overdue
- Disagreement with the exemptions used (with only 2 of the original exemption applications being overturned)

8 of the FOI internal reviews upheld the council's original position. Of the 7 that upheld the requesters position learning was taken forward:

- The linking of previous requests and reviewing of previous disclosures is given more care, ensuring inexperienced officers can better understand the decisions on disclosure that have already taken place.
- Steps are being taken to ensure that officers appropriately challenge the use of exemptions
- Quality checking of responses to confirm all information requested has been provided.

9 of the 10 SAR internal reviews upheld the council's original position. The internal review that upheld the requester's position confirmed that there was a small amount of missing information, which was not found on the main social care file.

Relevant and proportionate checks are made to find information requested in SARs; this is helped by the requester providing information of service areas they have had contact with but had not been provided in this case.

## **ICO Cases**

The 9 ICO complaints were broken down as follows:

- 4 SARs
- 2 right of rectification
- 1 right erasure, and
- 2 FOI

The focus of the ICO complaints was on:

- Request being overdue
- Disagreement with the exemptions used (all upheld the council's original decision)

All the above ICO complaints upheld the council's position in relation to the use of exemptions. The complaint in relation to the SAR request being overdue was understood by the ICO in terms of our reasons for delay, taking into account that the case was being progressed and the requester was kept updated with progress.

It is considered that the continuous improvements to our processes and customer focus significantly contributes to the low numbers received.

## **7. Overdue SARs**

The additional temporary capacity focused on reducing the number of overdue requests, that had built up by September 2020, seeing this original 'backlog' reduce from 51 to 5 SARs.

However, the continued receipt of high numbers of complex SARs has meant that newer requests have continued to go overdue, with 18 SARs currently overdue.

The work to reduce the number of cases overdue has had a negative impact on monthly performance, as shown in graph 3; as more of the older cases are closed, it shows as an increase in cases closed out of time each month. For example, March 2022 shows a performance rate of 42%, which is due to 12 of the 17 cases closed in the month being olderoverdue cases.

The remaining 5 cases from the original backlog are exceptionally large in volume and complexity and are being progressed under a new process for handling large SARs, in conjunction with social care colleagues. These will take considerable time to complete, but the impact on performance is likely to continue to reduce over time.



## 8. 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, the council has also made the following improvements over the last year:

- Populating a disclosure log of responses to previous requests.
- Updating our external webpages with additional guidance and clarity on the Information Rights requests process,
- Collaborating with colleagues in Highways to proactively release information contained in the most frequently asked requests

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.

## 9. Improvement work

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

Due to concerns about performance, a comprehensive review was completed. As a result, capacity has been built in the core team, both permanently and on a temporary basis. The impact of which can be seen within the FOI performance, which has remained just below the ICO target of 90% for a 2021/22. The subsequent continued increase in demand, with large and complex SARs, continues to affect performance across all types of requests, so is being kept under close review.

### Freedom of Information / Environmental Information Requests

A follow up of the council's Information Commissioners Office FOI audit was conducted by the ICO in November 2021. The ICO concluded that sufficient progress had been made and are no longer actively engaged with the council. A number of the recommendations required longer term improvements, which are ongoing, including:

- Enhancing the quality checking process to ensure that all checks within the guidance are completed each month and a clear audit of checks and follow up actions is maintained.
- The implementation of a hybrid request process to be used when requests cross both Data Protection and Freedom of Information legislations. Templates and training for this new process has been conducted.
- FOI training has been produced to continue awareness of the legislation to staff.
- Work is ongoing on formalising and standardising the approach across service areas, through the implementation of a Request Co-ordinator role.

The following actions are also in progress:

- Development 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:

- Implementation of guidance on managing large SARs for joint working with Children's Services on large and complex social care cases including the use of proactive information sharing as standard practice to lessen the burden of formal SARs.
- Implementation of SAR extension guidance and training for officers.
- A review of the council's internal review guidance and training provided to principal officers.
- Improved and ongoing communication with requesters to clarify requests, for a more clearly refined scope and to provide updates on case progression.
- Continued development of the training plan for all Information Officers, including regular and refresher training and development.

Next priority actions include:

- The completion of a SAR handbook, covering all aspects of request processing.

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July 2022

## Appendix A – FOI process

Diagram 2: The stages of the SAR process



## Appendix B – SAR process

Diagram 2: The stages of the SAR process

