

Overview and Scrutiny Committee

11 September 2025

Part 1 - Public

Matters Taken Under Delegated Powers



Cabinet Member	Cllr Martin Coffin, Cabinet Member for Finance, Waste and Technical Services
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Information rights requests – update

1 Summary and Purpose of Report

- 1.1 This report updates Members on the discharge of the Borough Council's duties in managing requests for information made under the Freedom of Information Act 2000 (FOI), the Environmental Information Regulations 2004 (EIR), the UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018 (DPA).

2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 This report will contribute to the delivery of this strategic priority by ensuring we discharge our obligations in relation to information rights in a timely and efficient manner.

3 Recommendations

- 3.1 Members are asked to
- (a) note the contents of this report;
 - (b) indicate whether they wish to give their support to a review of resources for the management of information requests (subject to any proposals for additional resources being reported to/ approved by the General Purposes Committee and full Council)

4 Introduction and Background

- 4.1 Members will be familiar with the legal duties imposed upon the Borough Council by the various statutory regimes covering data protection and information rights. For the assistance of Members, a brief summary is set out below.

Freedom of Information Act 2000

- 4.2 The Freedom of Information Act 2000 (FOI) confers two statutory rights on applicants:
- 1) To be told whether a public authority holds the information requested; and if so,
 - 2) To have that information communicated to them
- 4.3 These rights are subject to a limited range of exemptions.
- 4.4 As a public authority, the Borough Council is ordinarily required to comply with its duties under section 1 of the Freedom of Information Act 2000, whether or not it ultimately discloses the requested information or withholds it, promptly and in any event within 20 working days of receiving a request. In certain circumstances i.e. if a qualified exemption is engaged and the public interest test applies, the period for compliance may be extended to allow the Council to reply in such as is reasonable, although the Information Commissioner considers that an additional 20 working days is the maximum length of time that an authority should reasonably take

Environmental Information Regulations

- 4.5 The Environmental Information Regulations 2004 (EIR) promote the release of environmental information by providing a regime similar to the FOI Act. Its aim is to enable increased public participation in environmental decision-making.
- 4.6 In a similar way to requests for information under FOI, the rights under EIR are subject to a limited range of exceptions.
- 4.7 An equivalent time period to FOI applies in respect of requests for information under EIR i.e. 20 working days from receipt of the request. If the request is complex and voluminous, the deadline can be extended to 40 days.

Data Protection Act 2018/ UK GDPR

- 4.8 Under the DPA, individuals have the right to find out what personal information we hold about them. Requests are known as Subject Access Requests (SAR).
- 4.9 In respect of SARs, the Borough Council must respond within one month of receiving the request. The timescale can be extended by a further two months if the request is complex or the Borough Council has received a number of requests from the individual.

- 4.10 SARs can be complex as they may involve large amounts of sensitive information and may require specialist legal advice on disclosure/ redaction.

Sharing information e.g. with competent authorities

- 4.11 The Borough Council routinely receives a number of requests to share personal information with competent authorities e.g. the Police. Competent authorities can also be any other organisation or person with statutory law enforcement functions, such as local authorities detecting trading standards offences or the Environment Agency when investigating environmental offences.
- 4.12 Sharing information often happens where the Police force in question is investigating a missing person and wishes to know if the Borough Council has any information on their whereabouts. The UK GDPR and the DPA allow for this type of data sharing where it is necessary and proportionate.
- 4.13 Whilst sharing information with law enforcement authorities is not a request for information in the same way as those made under FOI, EIR or via a SAR, it is nevertheless important to advise members of the numbers of requests made by such authorities as these can have an impact on the resource required to manage the release of information.
- 4.14 It is also important to note that the Borough Council is not empowered to impose a charge for sharing information with law enforcement authorities.
- 4.15 Sharing information with other public authorities is also possible under the Digital Economy Act 2017.

Reviews

- 4.16 If individuals are not satisfied with the response to requests, they can request an internal review. This review is undertaken by a senior officer who was not involved in the preparation of the original response. The review seeks to assess the quality of the handling of the request, and the information that has been provided in the response.

Total number of information requests

- 4.17 The number of requests has increased significantly over the past 2 years. For example, during 2024 we received a total of 1223 requests under FOI, EIR, SAR etc. In 2023 the corresponding total was 886 and in 2022 the total was 728.
- 4.18 This trend is expected to continue in 2025, with 704 requests for information having been received by the end of June 2025.

Role of the Information Commissioner

- 4.19 The Information Commissioner has responsibility for promoting and enforcing the UK GDPR, the DPA, FOI and the EIR. The ICO is independent from government

and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

- 4.20 The Information Commissioner's expected rate of completion within the statutory timescales for FOI is 90%.

5 Performance

FOI

- 5.1 Performance data for the previous 4 calendar years is set out below.

Year	Number of requests	Response within statutory timescale
2024	882	658 (74.60%)
2023	837	648 (77.42%)
2022	692	556 (80.37%)
2021	692	513 (74.13%)

- 5.2 Members are asked to note that only a small number of requests are made under EIR. For example, in 2024 only 7 requests were made under EIR.

Subject Access Requests (SARs)

- 5.3 Performance data for the previous 4 calendar years is set out below.

Year	Number of valid requests received	Response within statutory timescale
2024	12	10 (83.3%)
2023	6	3 (50%)
2022	6	4 (66.6%)
2021	13	7 (53.8%)

Complaints made to the Information Commissioner

- 5.4 In November 2024, one case involving the disclosure of information under EIR was referred to the Information Commissioner, as a local resident wished to complain about the way in which their request for information had been handled by the Council.
- 5.5 A copy of the decision is attached as Annex 1. The Commissioner's decision was that the Council correctly handled the request under the EIR. However, at paragraphs 55 to 60 of the decision the Information Commissioner is critical of the

Council's handling of the request and its engagement with the investigation into the complaint.

6 Other Options

- 6.1 None considered.

7 Financial and Value for Money Considerations

- 7.1 Applicants making a request under the Freedom of Information Act 2000 can be charged if the cost of meeting the request exceeds a certain level (£600 for central government and £450 for local government). This equates to 18 hours of officer time at £25 per hour.
- 7.2 The Borough Council has a discretion to charge an applicant making a request for information under the Environmental Information Regulations. The charge, which must be reasonable, should not exceed the cost of making the information available. The Information Commissioner has issued guidance as to charging under the EIR, advising that the costs may include staff time and disbursements but should not include the costs of allowing an applicant to access any public registers or lists of environmental information held by a public authority, nor for the costs relating to the examination of environmental information at the offices of the Council or some other designated place.
- 7.3 In most cases, the Borough Council cannot charge a fee to comply with a Subject Access Request under the Data Protection Act 2018. However, we can charge a reasonable fee for the administrative costs of complying with a request if it is manifestly unfounded or excessive, or the applicant requests additional copies.
- 7.4 As stated earlier, the Borough Council cannot charge for requests for information made by law enforcement agencies.
- 7.5 The Borough Council does not have a dedicated resource to oversee the management of requests for information. FOI/EIR/ DPA requests are dealt with within existing staff resources and are recorded centrally by Property and Administration Services. Requests are dealt with by the nominated service co-ordinator(s) within the relevant directorate with management of response times also dealt with 'in-service'.
- 7.6 Where a request for information affects more than one directorate a lead directorate is nominated to co-ordinate the response to the request.
- 7.7 Over the past 4 years, the directorates handling the highest number of requests have been Finance & Transformation, and Planning, Housing & Environmental Health. The upwards trend in the number of information requests (see paragraphs 4.17 to 4.18) will likely create further capacity issues for these services. It is common practice within other councils to employ an Information Rights Officer to

oversee compliance with the relevant legislation and to provide advice and assistance to colleagues in handling requests for information.

- 7.8 In order to improve the management of requests, we have recently completed a process mapping exercise with Smarter Digital Services (SDS). This exercise will now lead to the creation of a new workflow for information requests, in turn providing improved (and centralised) management of compliance with the statutory timescales.
- 7.9 Whilst the process mapping exercise will assist in improving our compliance rates, it is considered that a review of resourcing for information governance is now due. We are seeing an increase not only in the volume of requests but also the complexity, so it is timely to review our resourcing of this mandatory function to ensure that we are adequately resourced for the future.
- 7.10 Any additional resourcing would represent growth, so more detailed proposals would need to be considered by the General Purposes Committee (in relation to any changes to the establishment) and by full Council (in relation to any budgetary implications).

8 Risk Assessment

- 8.1 The Information Commissioner has a range of enforcement powers, including fines, reprimands and enforcement notices.
- 8.2 The maximum level of fines under the UK GDPR is £17,500,000 or 4% of the total worldwide annual turnover of the undertaking (not the company), whichever is higher.
- 8.3 In June 2022, the Information Commissioner published an open letter to public sector leaders, where he announced a two-year trial of a revised approach to working more effectively with public authorities across the UK.
- 8.4 This revised approach saw the use of the Commissioner's discretion to reduce the impact of fines on public bodies and instead aimed at improving data protection standards in this sector through guidance and proactive engagement. The approach adopted by the Information Commission was to only issue a fine to a public authority in the most egregious cases, i.e. where the infringements are especially serious.
- 8.5 In December 2024 the Information Commissioner, having reflected on the evidence obtained from the trial, announced that he had decided to continue with the approach.
- 8.6 Whilst the risk of a fine is currently limited to those cases that the Information Commissioner considers to be egregious, the Commissioner has other enforcement tools at his disposal. For example, the Information Commissioner has issued a number of recent reprimands to local authorities for poor

performance in relation to the handling of data subject access requests and for the disclosure of personal information.

9 Legal Implications

9.1 As set out elsewhere in the report.

9.2 Paragraph 8.5 of the Code of Practice issued by the Cabinet Office in 2016 advises that public authorities with over 100 Full Time Equivalent (FTE) employees should, as a matter of best practice, publish details of their performance on handling requests for information under the Freedom of Information Act 2000.

10 Cross Cutting Issues

10.1 Climate Change and Biodiversity

10.1.1 Adaptation and resilience have not been considered.

10.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

10.2 Equalities and Diversity

10.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background Papers	None
Annexes	Annex 1 – Decision of the Information Commissioner dated 24 June 2025