

From: Ben Watts, General Counsel

To: Policy and Resources Cabinet Committee, 26
July 2023

Subject: Annual Information Governance Update

Status: Unrestricted

Recommendation

The Policy and Resources Cabinet Committee is asked to:

- a) **NOTE** the update on the proposed changes to the Freedom of Information Request Process; and
 - b) **NOTE** the activity undertaken to transform Information Governance processes and improve compliance with KCC policies.
 - c) **NOTE** plans to organise a Member Briefing ahead of the next meeting of the Committee to provide further details of the FOI process, requests and improvements planned.
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1. Introduction

- a) The Committee previously sought an update relating to the actions that have been taken in relation to the Council's repeated failure to meet the statutory and performance targets relating to responses provided to FOI queries and Subject Access Requests.
- b) Those performance targets sit alongside a range of other important statutory duties for the organisation to discharge in relation to information governance and this report also provides an update regarding those.
- c) This report sets out some of the activities and actions that have been undertaken which show greater granularity on the challenges faced and solutions being developed. It is often presented as a static position because the headline figures haven't moved to compliance but that is not the case and the report seeks to discuss that concern. The planned Member briefing facilitating a deep dive into some of the complex issues will provide an appropriate and helpful opportunity to explore this matter further ahead of the next quarterly report to better clarify the evolving nature of KCC's FOI situation.

- d) It is important to repeat that whilst these performance indicators report to the Policy and Resources Cabinet Committee, the materiality of compliance is driven by the response rate from individual directorates who hold the information.
- e) The past year has seen an array of transformation activity whereby projects have been delivered to improve compliance with KCC policies across the Council.

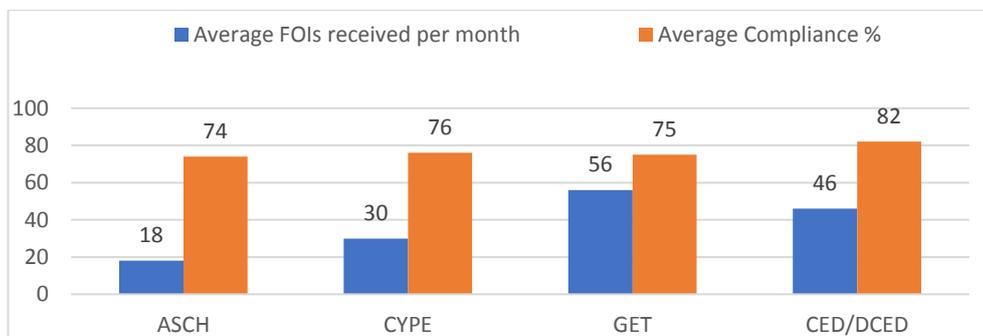
2. Freedom of Information Requests Background

- a) Members and Officers have previously noted that for both GLD02 (FOI) and GLD03 (SAR) that the targets were missed again this year and the improvement on the previous year's performance of just 1% in each case.
- b) In assessing and understanding the reasons for non-compliance we have reviewed the information available to us. We have previously made changes and improvements that have not materially improved performance so it was important to understand more about how the statistics occur to ensure that the right fixes are applied going forwards.
- c) In previous discussions, we have noted the increase in the number of requests of between 200% and 300% depending on the metric in question that had occurred in the Council's recent past in the period up to the pandemic. At the same time, the resources across the Council to respond to requests had reduced as budgets were reduced and the responses competed for resource with core activities within services.
- d) In mitigation, increasing amounts of information have been published on the Council's website in an effort to mitigate the need for residents and other interested stakeholders to make requests to get information.
- e) It is material that in the past two years we are seeing a change in the number and type of requests that are received.

Financial Year	Number of FOI requests
2018/19	2,358
2019/20	2,139
Pandemic	
2021/22	1,966
2022/23	1,738

- f) Accordingly, fewer requests are received but they are bringing greater complexity. Some of the requests impacting the statistics have also been linked to those service incidents reported elsewhere where the responding services have already been under pressure.

- g) Importantly, this means that the Council is in a very different position to the one that it faced previously where across the board the volume of FOIs being received was overwhelming the resources available. Whilst that still occurs in areas of critical concern, it is no longer the case across the organisation and in real terms the global number of requests is down by a quarter.
- h) In many respects, some of the easier requests are now dealt with automatically, which is positive for the requestor but it does not impact the performance statistics. In determining the next steps for improvement, it was important to further review the information that we held about the requests that we are now receiving.
- i) A further detailed deep dive of this information will be provided to Members at a forthcoming Member Briefing but in summary the data below provides an overview of FOIs received, and compliance rates from April 2022-2023:



	Total (Apr 22-23)	Average per month
Received	1951	150
Closed-In Time	1446	111
Closed-Overdue	427	33
Closed-Total	1873	144

- j) Based on this data, KCC currently has capacity to close an average of 111 FOI requests per month within the statutory timescales. However, alongside those being closed in time, there is also an average of 33 overdue FOIs being closed each month.
- k) The data suggests that, were the backlog of FOIs addressed, KCC could have capacity for up to 144 FOI requests to be closed in time, (depending on the complexity of the requests received) which would be just below the average number of FOIs received each month and would put KCC's compliance rate at around 96%.
- l) It is also clear that as services enter a period of difficulty in terms of delivery, that has an impact on the number and compliance rates which skews the organisational performance overall. Requests from dissatisfied service users go

up and because the service is struggling already the response rates go down, with a material impact on compliance rates. The reducing numbers of requests overall means that the impact on the statistics is even greater.

- m) Work has also been undertaken between colleagues in the Marketing and Resident Experience (MRX) team and the Information Resilience & Transparency (IR&T) team in Governance, Law and Democracy (GLD) to allow for the searching of previous FOI queries. The search of the disclosure log allows interested residents to search using a keyword or by date to see previous responses. This will be demonstrated at the meeting but the link for the disclosure log is available here: [Kent County Council Disclosure Log \(icasework.com\)](https://www.kent.gov.uk/icasework.com).

3. Proposed changes to KCC's Freedom of Information process

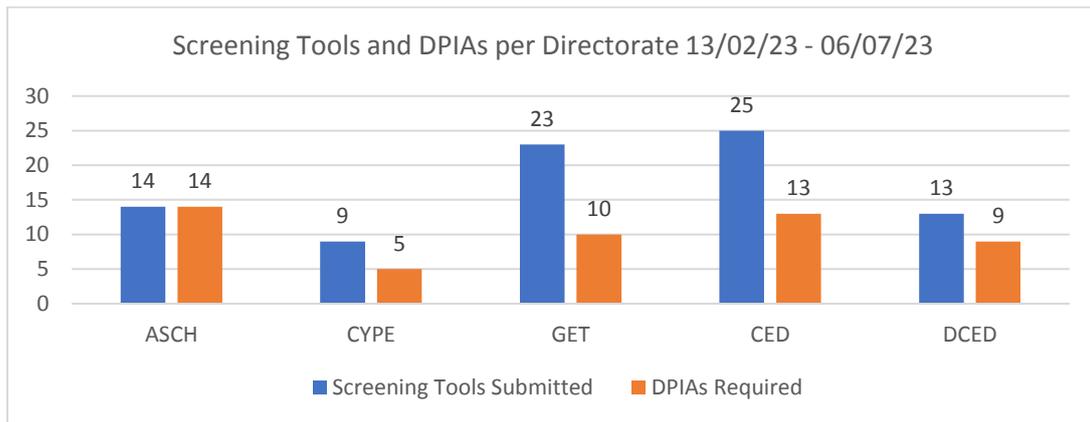
- a) Following a review of the current process, it is clear that any changes to the process must balance a recognition of the difference in the number of FOIs received in each directorate, as well as the realities of the resources available and the challenges present in each service. This will avoid the wrong solutions being applied universally to issues that are presenting locally.
- b) In simple terms, each Corporate Director is accountable for ensuring responses to FOI requests are returned to IR&T in advance of the statutory deadline and the resource that is currently utilised on chasing officers for responses will be converted to an advisory role to support those officers with drafting responses. In due course, we will be looking at how to use technology to support further efficiencies.
- c) It is anticipated that the conversion of the resource along with greater prioritisation within directorates will lead to increased understanding and ability around the more complex requests, thereby reducing the time to respond to them.
- d) The data and the engagement with Officers across the Council have made it clear that reminder emails are not an effective mechanism to keep services on track with their FOIs. We will be reflecting on the reporting arrangements both within directorate and corporate management teams as well as to Cabinet and Cabinet Committees.
- e) Officers are currently reviewing the end-to-end process and a further update will be provided in the autumn on the operational changes that are made. Similarly, work will be undertaken over the summer to look further with each directorate at the overdue cases and related trends to develop appropriate fixes to improve compliance.

4. Operational Delivery Activity

- a) The work undertaken to transform Information Governance processes was referenced at the start of this report and the two Information Governance projects that have been delivered so far in 2023 are the Data Protection Impact Assessment App (DPIA App) and the Data Breach processes.

5. DPIA App

- a) The DPIA App went live for use across KCC on Monday 13th February, following a joint project by Governance, Law and Democracy and the Centre of Excellence in Technology as part of the Strategic Reset Programme. The project aim was to save Officer time in the undertaking of the DPIAs, while also improving the quality of the assessments produced, through the utilisation of technology.
- b) The DPIA App was built using Microsoft Power Platforms, which have enabled the automation of different aspects of the process, including the initial determination of whether a full DPIA is required, which has already delivered substantial time saving to Officers.
- c) To determine whether a full DPIA is needed, a screening tool is completed by the project team. Under the previous process, it took an average of 23.5 days for the outcome of a screening tool to be reached. This was as a result of the back and forth of emails, and meetings between DPO Support and the project team to discuss the completion of the screening tool.
- d) When using the App, the user is informed immediately if a DPIA is required, as the answers input are matched against the criteria set out in KCC's DPIA policy. To ensure users input accurate information, the DPO Support team carry out spot checks on screening tools where it is determined a DPIA is not required.
- e) In the vast majority of cases, when carrying out these spot checks the outcome of 'DPIA not required' is confirmed. Additional information is only being sought for one or two screening tools per month. The App is therefore providing a time saving benefit to the DPO Support team and the project teams across KCC. It allows for the careful management of information governance risk whilst allowing busy project managers to self-serve their needs.
- f) As of 6th July there had been 84 screening tools submitted via the DPIA App, of which 51 required a full DPIA. The directorate breakdown is as follows:



g) Use of the App is at consistent levels, with an average of 16 screening tools being submitted per month, with 61% of these then requiring a DPIA.

h) Where a DPIA is required, it takes officers through the necessary steps and activities to assess the data protection impact of their project. This has meant that resources within Governance, Law and Democracy have been able to be applied judiciously to the projects with the greatest risk and has managed the growing demand effectively. Again, officers running projects (and information asset owners at a senior level) are able to log into the system and see where things are. Improvements continue to be made but the app has made a very promising start.

6. Data Breach

a) A new process for notifying and investigating data breaches was launched across the Council on Monday 3rd July 2023, following a successful pilot conducted earlier this year.

b) Officers from Governance, Law and Democracy have designed a new process with the aim of reducing the time spent by Officers reporting and responding to data breaches, while also providing greater assurances that data breaches are being investigated and resolved across the Council.

c) The first stage of the data breach process is the completion of Part 1 of the Data Breach Report Form to notify the IR&T team of the breach. Previously, the Part 1 form was only available as a Microsoft Word document which was downloaded, completed and emailed to colleagues who were responsible for manually inputting the response into their database.

d) The corporate team also had to identify and contact the individual responsible for completing the investigation, details of which would be inputted into Part 2 of the Data Breach Report Form.

e) As a part of this process, significant resources were spent clarifying information, inputting data and contacting Officers to seek assurance that an investigation had taken place.

- f) Both report forms have now been moved to Microsoft Forms which provides greater flexibility in terms of data gathering and signposting guidance to Officers thereby improving the quality of responses and reducing the time spent completing the form.
- g) Automation technology has been utilised to populate databases, emails and documents, allowing resources within Governance, Law and Democracy to be focused on assessing the risk of the breach and the preventative steps which can be taken.
- h) An automated reminder system has also been developed so that Officers are prompted to complete the necessary documentation when required.
- i) The new Data Breach process went live for use across KCC on 3rd July. Reporting tools will be used to analyse data breaches in further detail to identify steps that can be implemented to reduce the frequency and impact of data breaches.

7. Recommendations

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8. Report Author and Relevant Director

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