

Title of report: Annual review of the council's Information Requests and Complaints 2022/23.

Meeting: Audit and Governance Committee

Meeting date: Tuesday 12 December 2023

Report by: Helen Worth & Tilly Page

Classification

Open

Decision type

This is not an executive decision.

Wards affected

(All Wards)

Purpose

To inform the committee of performance in the areas of complaints, data incidents and requests for information made to the council over the municipal year 2022/23.

Recommendation(s)

That the information set out in the report is noted.

Key considerations

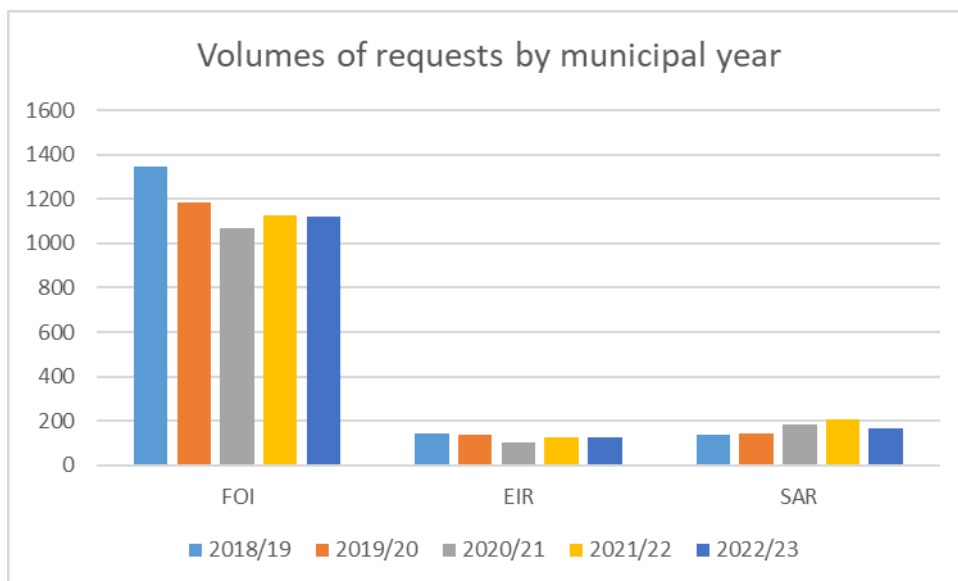
The report captures information which is 6 months out of date however we plan to present this report earlier at the next reporting period.

Requests for information

1. The council is subject to legislation that requires openness and transparency, providing members of the public with qualified rights of access to information. At the same time, the council is also required by legislation to protect certain information from unauthorised disclosure, and to exempt information from being released. The council therefore makes decisions on disclosure of information based on the law and regulatory guidance, occasionally having to balance the public interest in releasing data with the confidentiality of the information and the harm that release would cause. When the council undertakes this balancing exercise,

it still does so taking into account relevant case law and decision notices.

2. From 1 May 2022 to 31 April 2023 the council dealt with 1,119 requests under the Freedom of Information Act (FOI) 2000, and 127 requests under the Environmental Information Regulations (EIR) 2004.
3. There were 38 such requests that were answered outside of the statutory deadlines for responses to be made, meaning that the overall response rate was 96% meeting the council's target of 95% and well within the Information Commissioner's Office (ICO) threshold of 90% for responses within deadline. Where information was not provided in full this was because some of the information was exempt (for reasons such as the information being personal data). In a small number of cases the information was not held, or refused in full due to the information being exempt from disclosure and no information was released.
4. The volumes of requests received fell slightly in comparison to the previous municipal year and we believe that this is due to the introduction of a disclosure log where we now publish about 75% of all responses. We have continued to see a steady decrease in requests received.
5. Five cases were referred to the ICO and in all cases the ICO upheld the council's decision.
6. During the last municipal year there were also 167 requests where individuals asked for personal data about themselves under their right of subject access in data protection legislation. The response rate for this period was 94% of requests responded to within the 30 day statutory deadline. This was just below the target for the calendar year, which we set at 95% response rate. The graph below compares volumes of requests received in municipal year 2022/23 with volumes received in previous years.



7. Statistical data on requests processed under FOI and EIR are published and updated quarterly at this web site address:
www.herefordshire.gov.uk/info/200148/your_council/34/our_open_data_principles/13
8. Where other council's publish their request volume statistics, some informal benchmarking can be made based on requests received in the financial or calendar year, and the council is performing in a similar way amongst other such councils. Leicestershire Council answered 98% of their requests within the statutory timescale in 2022 where Bristol Council had a response rate of 68%.

9. Information request data is monitored monthly within the council at the information governance steering group, quarterly at directorate management team meetings, and bi-annually at Corporate Leadership Team. Policies including the [Requests Charging Policy](#), [Internal Review Policy](#) and [Publication Scheme](#), have all been reviewed, updated and published on the council web site. There is a section on processes for staff to follow regarding information requests within the mandatory training completed by all council staff annually.
10. The information governance team deals with requests made by the police in relation to criminal investigations to view council information, and requests from other public sector organisations in relation to such matters of investigation of fraud and child protection matters concerning closed social care cases. The volumes of the latter requests have again remained stable over the past year compared with the previous two years. Police requests have increased slightly over the past year and a total of 78 requests were processed, including the locating, proportionate sharing and redaction of records.

Complaints

11. The council manage two complaints procedures; The Corporate Complaints Policy and The Children's Statutory Representations and Complaints Policy. The Corporate Policy covers all directorates within Herefordshire Council. For a complaint to be considered within the Children's Representations and Complaints policy there has to be a child, young person, or a family member or person with a significant interest in the welfare and wellbeing of the child, who is expressing unhappiness or dissatisfaction with the way that they (the child or young person) have been treated. They believe that the local authority (including a commissioned service or other body providing services on behalf of the local authority) has done something wrong, provided a poor service or failed to do something and they expect this to be looked into and responded to.
12. The council dealt internally with 734 corporate complaints, a significant increase from last year. Of the total number of complaints, the council upheld or partially upheld 108. In addition, 55 complaints were processed under the children's complaints procedure for children's social care, of which 19 were upheld.

www.herefordshire.gov.uk/social-care-support/complaints-feedback-childrens-young-peoples-services

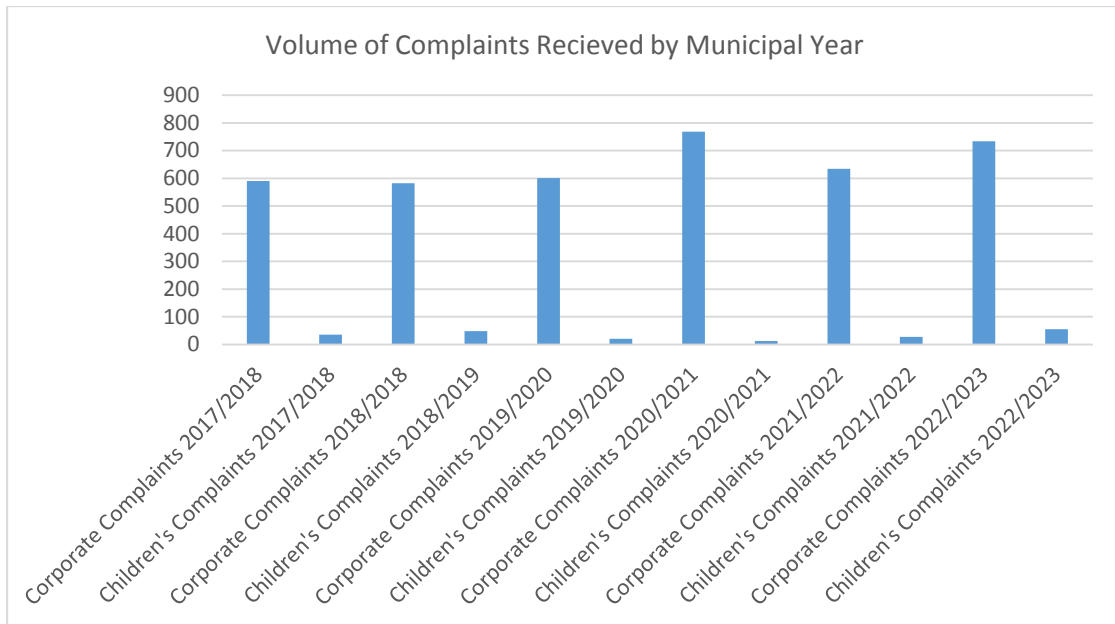
www.herefordshire.gov.uk/downloads/file/1334/corporate-complaints-policy

13. Quarterly reports to directorate management teams highlight these areas and recommend action to be taken, so that complaints trend data can be actively used to anticipate problem areas for service users and training needs for council staff. As one example, complaints about children's services have been used to contribute to the improvement plan implemented last year, for more active listening to the issues experienced by people receiving children's social care services.
14. When a complaint has exhausted the council's complaints procedure administered by the Complaints team, complainants can approach the Local Government and Social Care Ombudsman (LGSCO) for an independent investigation. For findings by the LGSCO of maladministration and injustice (where the council has been found to be "at fault") a decision notice will give recommendations that may include compensation payments.
15. The LGSCO themselves publish statistics by financial year. The review of complaints received by the LGSCO covering 1 April 2022 to 31 March 2023 provides figures for comparative authorities which are given in the table below. The council has seen an increase in the number of cases upheld against it, however in 2022-23 the LGSCO changed their investigation processes, contributing towards an increase in the average uphold rate across all complaints. Considering all complaints received by the council, 57 complaints were referred to the LGSCO

of which they considered 22 and upheld 16. This means 73% of complaints the LGSCO investigated were upheld. This compares to an average of 72% in similar organisations.

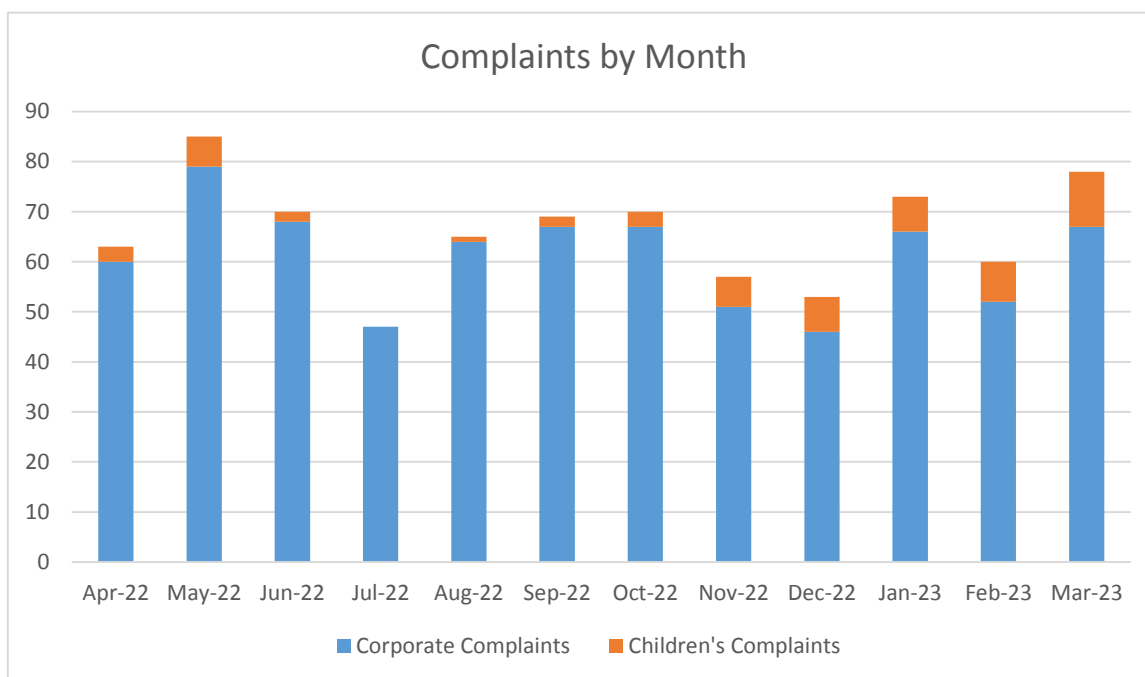
Authority	Number of complaints considered	Complaints upheld
Isle of Wight	13	54%
Rutland	4	75%
Cheshire West and Chester	13	62%
Northumberland	19	84%
East Riding of Yorkshire	19	74%
Herefordshire	22	73%
Shropshire	20	80%
Cornwall	38	66%
Wiltshire	31	58%
North Somerset	11	55%
Cheshire East	30	73%
Bath and North East Somerset	11	55%
Solihull	13	54%
Central Bedfordshire	5	80%

16. The LGSCO cases that were upheld against the council are set out on the LGSCO website which is at www.lgo.org.uk/decisions
17. In 100% of cases the council has complied with the recommendations made by the LGSCO to resolve the case. In some cases compensation was recommended. The council paid out a total sum of £2,200 as advised by the LGSCO for the period of 1 April 2022 to 31 March 2023.
18. The following graphs show volumes of complaints processed under the council's corporate complaints procedure alongside those processed under the separate statutory children's complaints procedure.



19. The second graph breaks down complaints received by month with the data set out in the following table:

Month	Volume of complaints
April 2022	60 corporate complaints and 3 children's complaints
May 2022	79 corporate complaints and 6 children's complaints
June 2022	68 corporate complaints and 2 children's complaints
July 2022	47 corporate complaints and 0 children's complaints
August 2022	64 corporate complaints and 1 children's complaints
September 2022	67 corporate complaints and 2 children's complaints
October 2022	67 corporate complaints and 3 children's complaints
November 2022	51 corporate complaints and 6 children's complaints
December 2022	46 corporate complaints and 7 children's complaints
January 2023	66 corporate complaints and 7 children's complaints
February 2023	52 corporate complaints and 8 children's complaints
March 2023	67 corporate complaints and 11 children's complaints



Information governance

20. The council's information governance team monitors low-level data security incidents, near misses, and allegations of breaches of data protection legislation, of which 210 such cases were reported and dealt with over the past municipal year. Out of these, 7 met the threshold for reporting to the Information Commissioner's Office (ICO), however no action was taken against the council and the ICO was satisfied as to how the council had dealt with the breaches in all cases. The figures reflect that the council has sound processes in place for reporting data incidents, and that there is a high level of awareness from the mandatory training given to all council staff regarding data protection. It also indicates a more open culture around reporting things that have gone wrong. Incidents are reviewed at the information governance steering group and learning from incidents is fed back through staff training and changes in processes and procedures.
21. The information governance team also assesses the mandatory data protection impact assessments that are completed for new programmes, projects or systems that involve processing of personal data, advise on information sharing agreements, implement information security policies and procedures, and ensure that teams make information available on how the council processes personal data.
22. In addition to providing the council with a service, as of April 2023, 51 of the county's schools were signed up to a self-funding school's data protection officer service level agreement. A high level service and support to schools is provided whether on the end of the telephone or via a face to face visit.

Community impact

23. In accordance with the adopted code of corporate governance, the council must ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. The council is committed to promoting a positive working culture that accepts, and encourages constructive challenge, and recognises that a culture and structure for scrutiny are key elements for accountable decision making, policy development, and review.
24. This report provides information about the council's performance in handling complaints and requests for information from members of the public, in order to provide assurance that the council handles requests and complaints effectively and derives learning from them to improve

experiences for those who receive services from the council. It also provides information about the measures taken to protect personal data under the UK General Data Protection Regulations and the Data Protection Act 2018.

Environmental impact

25. The council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
26. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the council's Environmental Policy, including through encouraging complaints and requests for information to be submitted electronically to the council.

Equality duty

27. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
28. This report is for information only and therefore there are no equality duty implications arising directly from this report.

Resource implications

29. There are no financial implications arising directly from this report, which is for information. As outlined above however, there are risks of fines from the Information Commissioner's Office for breaches of data protection legislation, and compensation payments if the council has acted in a way that results in maladministration and injustice. The council has sufficiently protected the personal data it holds to not incur fines so far. The council has however had to make some compensation payments following complaints, hence learning from complaints is being fed back into strategic planning.

Legal implications

30. There are no direct legal implications arising from the report as it is a factual summary provided for information purposes.

Risk management

31. The risks to the council are of non-compliance with legislation including the UK General Data Protection Regulations, the Data Protection Act 2018, the Freedom of Information Act 2000, the Environmental Information Regulations 2004, and the Local Government Act 1974. Effective operational and governance processes mitigate these risks of non-compliance with information legislation and standards, and maintaining high standards of compliance mitigates

risks to the reputation of the council.

Consultees

32. Not applicable.

Appendices

None.

Background papers

None identified.

Report Reviewers Used for appraising this report:

Governance	Jen Preece	Date 04/12/2023
Finance	Karen Morris	Date 15/11/2023
Legal	Sean O’Conner	Date 15/11/2023
Communications	Luenne Featherstone	Date 04/12/2023
Equality Duty	Harriet Yellin	Date 15/11/2023
Procurement	Lee Robertson	Date 15/11/2023
Risk	Kevin Lloyd	Date 15/11/2023

Approved by Claire Porter	Date 04/12/2023
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