

<b>Meeting:</b>	<b>Audit and governance committee</b>
<b>Meeting date:</b>	<b>Wednesday 29 November 2017</b>
<b>Title of report:</b>	<b>Information Access and Governance</b>
<b>Report by:</b>	<b>Information Access and Records Manager</b>

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

Countywide

## **Purpose and summary**

To inform the committee of performance in the council's information access and information governance which includes areas of complaints, data breaches and requests for information made to the council over the municipal year 2016/17, so that the committee can be assured that high standards of openness and transparency are adhered to and that high standards of conduct are promoted.

## **Recommendation(s)**

**That:**

- (a) the information set out in this report regarding requests for information and complaints over the past year be reviewed and the committee determine any recommendations they wish to make to strengthen compliance with the council's arrangements for corporate governance.**

## **Alternative options**

1. There are no alternative options as the report provides a factual summary of performance.

## Key considerations

- 1 **Requests for information:** The council receives requests for information under a range of legislation, this report covers requests under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 (for requests for environmental information), and Section 7 of the Data Protection Act 1998 (for requests by individuals to see personal data held on them). From May 2016 to April 2017 the council dealt with 1,217 requests under the Freedom of Information Act, 81 requests under the Environmental Information Regulations, and 75 requests under the Data Protection Act. The number of requests has remained relatively stable over the past year compared with the last 2 years, though there has been an increase in “subject access requests” under the Data Protection Act 1998.
- 2 Information requests are administered by the information access team (IAT), who ask service areas to provide information in response to the requests received. Service areas within the council respond to requests within the statutory time limit, with compliance remaining at a high level of 95%. This is well within the acceptable rate recognised by the Information Commissioner’s Office. Those requests that are responded to late are due to one off problems or staff capacity issues. Most of the late responses are only slightly over the deadline.
- 3 Response rates, trends and amount of redaction are monitored monthly by the council’s information governance steering group with reports and recommendations from the information access team.
- 4 There is currently no requirement for public authorities to publish their figures on the number of information requests received, however informal benchmarking with other authorities shows that the council compares very well with other authorities.
- 5 Trends and themes over what has been requested over the past year including to present have been discretionary housing payments, domiciliary care services and costs, social care funding and costs, spend on domestic abuse services, sexual health budgets and expenditure, school funding allocations and budgets, looked after children data, alternative school provision, public health funerals, the Velo Birmingham cycle ride, animal licensing, premises licences, parking fines, Prevent, housing cladding / towers / fire assessments, the link roads, housing benefits, street works, pothole compensation claims, and flood management.
- 6 Over the past year, 97 requests were refused in their entirety for exemptions including personal data, information already publically available and commercial sensitivity. One hundred and fifty further requests had exemptions applied to part of the response for exemptions including personal data, commercial sensitivity, information publically available and prevention /detection of crime.
- 7 Publishing more information helps the council to be more open and transparent, particularly when anticipating what information requests are likely to be made. As an example, the business rates team have, since September 2015, been publishing their datasets, and as a consequence have experienced a reduction in the amount of requests received under the Freedom of Information Act, and those that are received are now quick and easy to respond to (just giving the link to the area that they are published on the council website). The IAT is exploring other areas that could benefit from this approach.
- 8 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 such requests have again remained stable over the past year compared with the last 2 years.

- 9 **Complaints:** Complaints data is held by the information access team, including for complaints investigated by the Local Government and Social Care Ombudsman (LGO). For findings by the LGO 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. There are also clearly reputational issues for the council if there are such findings.
- 10 To avoid being at fault, generally the council needs to maintain standards of good communication, quick responses, good record keeping, sound decision-making and excellent customer service. Whilst complaints over the past year have covered a wide range of issues, generally themes of poor recording, not getting back to people when we said we would, and taking too long to provide a service have been found. Quarterly reports to directors highlight these areas and recommend action to be taken, so that complaints trend data is actively used to inform improvement; for example, complaints data was used by adults and wellbeing for their annual strategic planning across the directorate.
- 11 The LGO themselves publish statistics by financial year. The LGO annual review of complaints covering April 2016 to March 2017 figures for comparative authorities are as follows:

Council	Not upheld	Upheld	Uphold rate
Bath and North East Somerset	14	9	38%
Bedford Borough	12	2	14%
Central Bedfordshire	7	8	53%
Cheshire East	17	12	41%
Cheshire West and Chester	6	7	54%
Cornwall	31	37	54%
East Riding of Yorkshire	10	10	50%
<b>Herefordshire</b>	12	10	45%
Isle of Wight	6	13	68%
North Somerset	11	10	48%
Northumberland	12	13	52%
Rutland	2	0	0
Shropshire	12	11	48%
Solihull	3	8	73%

Wiltshire	12	12	50%
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12 Herefordshire Council again is performing well amongst comparable councils. The LGO writes each year to the council with the statistics of cases dealt with and in this year's letter wrote that, "It is pleasing to note that, during the year, your Council has responded to our enquiries without delay and in one case acted proactively to agree a remedy to a complaint we were investigating. I welcome this positive response and commitment to resolving complaints promptly." The LGO annual review letter is available at: <http://www.lgo.org.uk/documents/councilperformance/2017/herefordshire%20council.pdf>

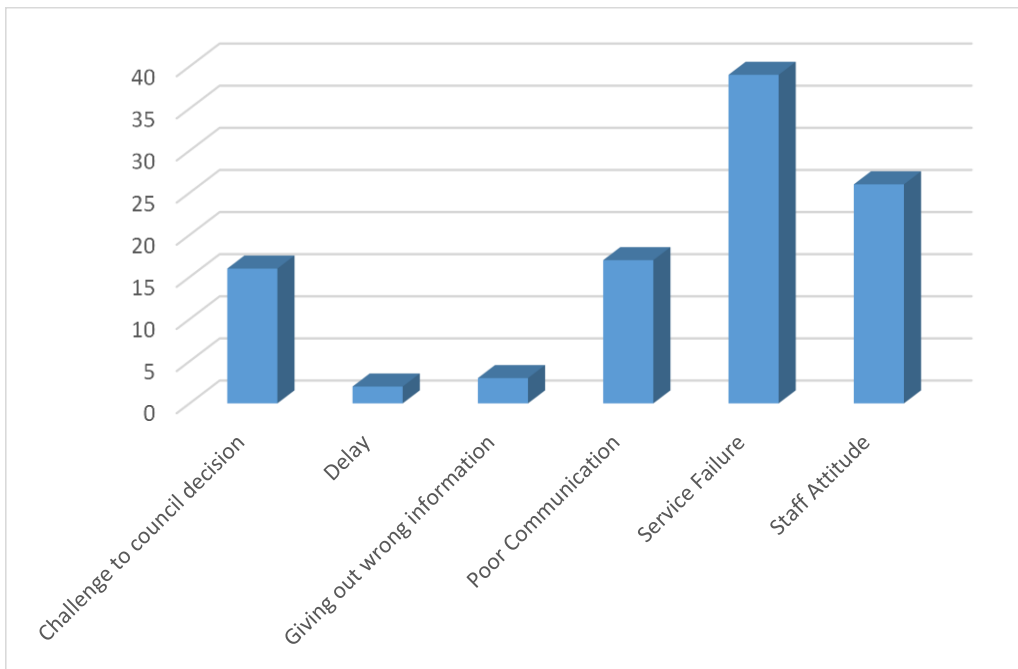
13 The LGO cases that were upheld are summarised as follows:

- lack of education for a child for a period of 2 months whilst decisions over educational provision were made
- not carrying out 'child in need' meetings every three months as required for a particular service user and not keeping proper records of those meetings that did take place. There was also insufficient oversight of the service user's case by team managers.
- failure to follow council procedure for investigating noise complaints in a particular case.
- fault in how the council communicated with a service user of adult social care with assessing their care needs.
- the council's poor workload management and communication resulted in a service user losing his place at a care home. Because of this, he was residing in a care home which was unsuitable for his needs.
- failure to consider highway safety concerns when reviewing the visibility of yellow lines for parking enforcement purposes.
- fault by the council in the support it provided to a carer, along with poor communication and lack of explanations over funding.
- the council was unable to demonstrate that it had posted a site notice for an amended planning application and properly followed its policy for publicising planning applications.
- delay by the council in obtaining an occupational therapy assessment for a kitchen adaptation for a disabled person.
- the council did not consider the service users' blindness when deciding the work that they had requested regarding cutting back overhanging vegetation from a pathway was not safety critical.

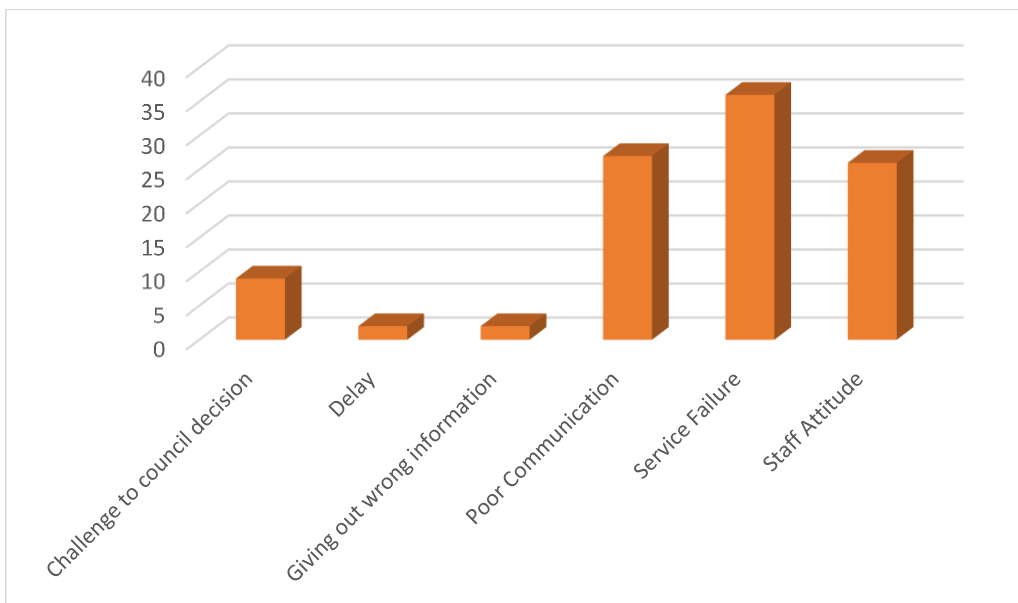
In all cases the council has complied with the recommendations made by the LGO to resolve the case. In some cases compensation was recommended. The council paid out a total sum of £5,450 in the year 2016/17.

14 The council dealt internally with 692 complaints, of which the council upheld or partially upheld 18%. The graphs below show the volume of complaints received by each directorate of the council over the municipal year by category, plus overall complaints by month:

## Adults and Wellbeing

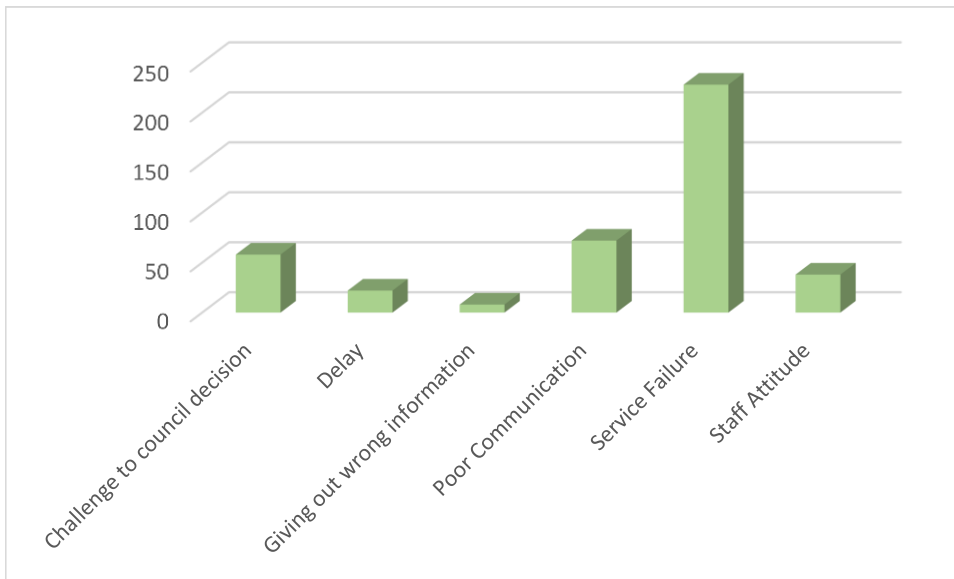


## Children's Wellbeing

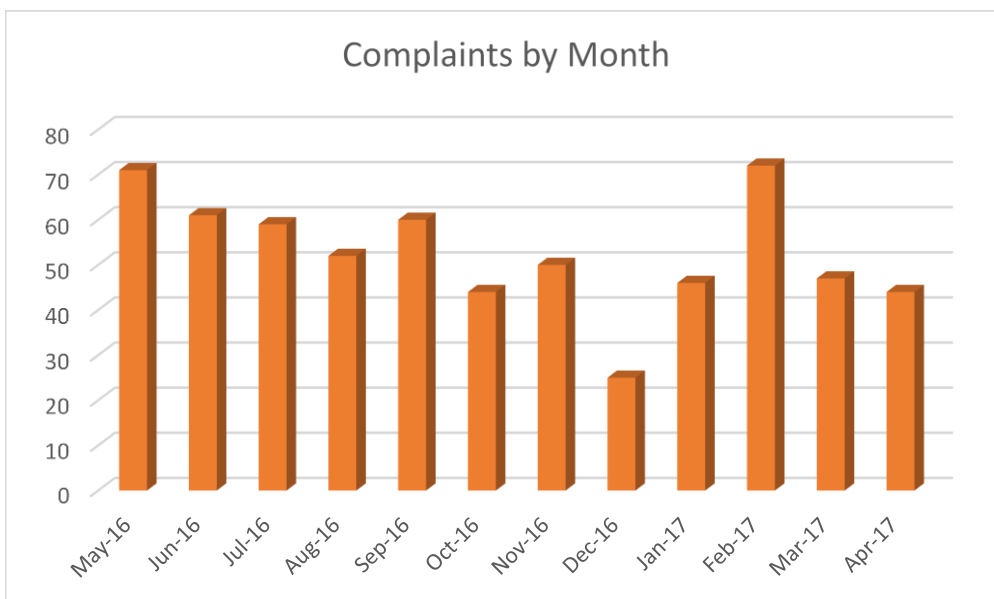


*NB: There is a separate complaints team in children's wellbeing for certain types of complaint to children's social care; this graph reflects only complaints handled through the Information Access Team as categorisation differs for children's social complaints. For these complaints, poor quality of service and poor communication were the highest categories of complaint.*

## Economy Communities and Corporate



*NB: This includes complaints relating to services provided on behalf of the council by Hoople, Balfour Beatty Living Places and FCC Environment.*



- 15 **Data breaches:** There have been no data breaches over the past municipal year that have been reported to the Information Commissioner's Office. The council's information governance team monitors low-level data security incidents, near misses, and allegations of breaches of the Data Protection Act 1998, of which 71 such cases were reported and dealt with over the past municipal year.
- 16 **New data protection legislation:** The council's information governance team has prepared an action plan for compliance with the Data Protection Bill currently progressing through Parliament that incorporates the European General Data Protection Regulations. The action plan includes information audits being conducted with teams across council services, as well as training and awareness for members of staff and councillors, and updating of policies and procedures.
- 17 **RIPA:** The Regulation of Investigatory Powers Act 2000 (RIPA) restricts the circumstances in which local authorities may authorise directed (covert) surveillance. In summary, it can only be applied if it is for the prevention or detection of criminal offences if: the maximum term is of at least 6 months imprisonment; it is related to underage sale of tobacco or alcohol; serious criminal damage; dangerous waste dumping; or, benefit fraud. All applications for RIPA must have judicial approval.
- 18 **Community trigger:** The community trigger gives individuals and communities the right to review their case of anti-social behaviour or hate crime, if they are not happy with the response given by the relevant authorities. A community trigger can be applied for if an individual has reported three or more incidents of anti-social behaviour to the council, the police, or their housing association within the past 6 months, or if an individual and four or more individuals have complained separately about similar incidents of anti-social behaviour to the council, the police, or their housing association within the past 6 months. There has been a very low number of such instances over the past year.

## Community impact

- 19 This report provides information about the council's performance in handling complaints and requests for information from members of the public. This should provide reassurance that the council handles requests and complaints effectively and derives learning from them to improve experiences for those who receive services from the council, in accordance with the principles of the council's code of corporate governance.

## Equality duty

- 20 Section 149 of the Equality Act imposes a duty on 'public authorities' and other bodies when exercising public functions to have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 21 This report is for information only and therefore there are no equality duty implications arising directly from this report.

## **Resource implications**

- 22 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, it has however had to make some compensation payments following complaints and hence learning from complaints is being fed back into strategic planning.

## **Legal implications**

- 23 There are no legal implications arising directly from this report, which is for information

## **Risk management**

- 24 Effective operational and governance processes mitigate the risk of non-compliance with information legislation and standards, and maintaining high standards of conduct mitigates risks to the reputation of the council

## **Consultees**

- 25 Not applicable.

## **Appendices**

- 26 None.

## **Background papers**

- 27 None identified.