

Title of report: Annual review of the council's Information Requests & Complaints 2023/24

Meeting: Audit & Governance Committee

Meeting date: 18 September 2024

Report by: Claire Jacobs & 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 2023/24

Recommendation(s)

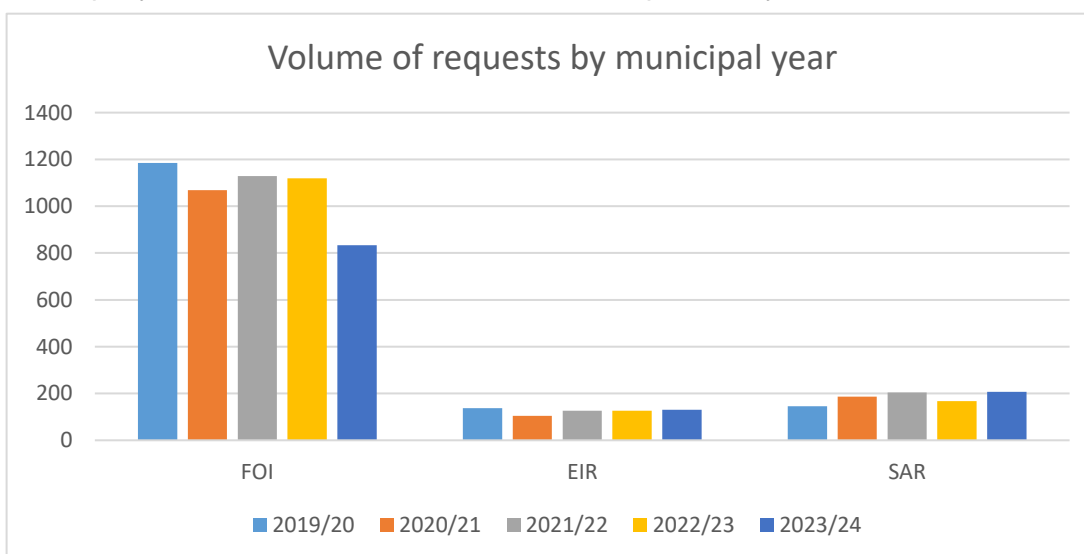
That the information set out in the report is noted.

Key considerations

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

2. From 1 May 2023 to 30 April 2024 the council dealt with 834 requests under the Freedom of Information (FOI) Act 2000, and 130 requests under the Environmental Information Regulations (EIR) 2004.
3. There were 13 such requests that were answered outside of the statutory deadlines for responses to be made, meaning that the overall response rate was 98.6%. This exceeded the council's target of 95% compliance and was 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 consisting of 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. There were 282 fewer requests received in comparison to the previous municipal year. We believe that this is due to the introduction of a disclosure log where we publish requests / responses to all FOI and EIR requests except for those which have had an exemption applied for personal data. We have also dealt with more requests as Business as Usual. These are requests for which the information is already publicly available either on the council's website or disclosure log or are otherwise easily answerable. During the municipal year we dealt with an additional 368 requests as business as usual. Handling them that way ensures a faster response for requesters and reduces the amount of time that service areas have to spend on FOI / EIR requests.
5. Three 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 207 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 78% of requests responded to within the statutory deadlines. This was below the target for the calendar year, which we set at 95% response rate. The processing of these requests is very complex. For each request the Information Governance team have to review every single document to consider whether an exemption applies and redact accordingly. If the request is from a care leaver this can involve reviewing 1000+ documents. The graph below compares volumes of requests received in the municipal year 2023/24 with volumes received in previous years.



7. [Statistical data](#) on requests processed under FOI and EIR are published on the council's website and updated quarterly.
8. Where other council's publish their FOI / EIR request volume statistics, some informal benchmarking can be made based on requests received in the financial or calendar year, and the council is performing well in comparison to other such councils. Leicester City answered 98.6% of their requests within the statutory timescale in 2023, Worcestershire County had a response rate of 93.3% and Powys a response rate of 69%.
9. Information request data is monitored monthly within the council with Corporate Directors provided with monthly Information Governance reports, at the information governance steering group and bi-annually at Corporate Leadership Team. 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 previous years. Police requests have decreased over the past year and a total of 56 requests were processed, including the locating, proportionate sharing and redaction of records.

Information Governance

11. The council's information governance team monitors low-level data security incidents, near misses, and allegations of breaches of data protection legislation, of which 260 such cases were reported and dealt with over the past municipal year. Out of these, 4 met the threshold for reporting to the Information Commissioner's Office (ICO), however no action was taken against the council in 3 cases with the ICO satisfied as to how the council had dealt with the breaches. A decision is pending in the remaining case. 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.
12. 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.
13. In addition to providing the council with a service, as of April 2024, 47 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.

Complaints

14. The council dealt internally with 483 corporate complaints, a significant decrease from last years 734. It could be suggested that since the change in categorisation of how 'complaints' are processed, we are able to deal with more 'complaints' as service requests or enquiries. In addition to the 483 corporate complaint, the Complaints team managed, 158 service requests.

15. In addition, 102 complaints were processed under the children’s complaints procedure for children’s social care, a 85.5% increase from last year. Complaints that fall under the children's complaints and representations policy are those that have a demonstrable impact on the child or young person and come from a person who is deemed able to complain on behalf of the child or come from the child or young person themselves. Whilst complaints over the past year have covered a wide range of issues, generally themes of not providing a satisfactory service prevail, and decisions being challenged as they are alleged to be unfair. Links to both complaints policies are provided below:

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

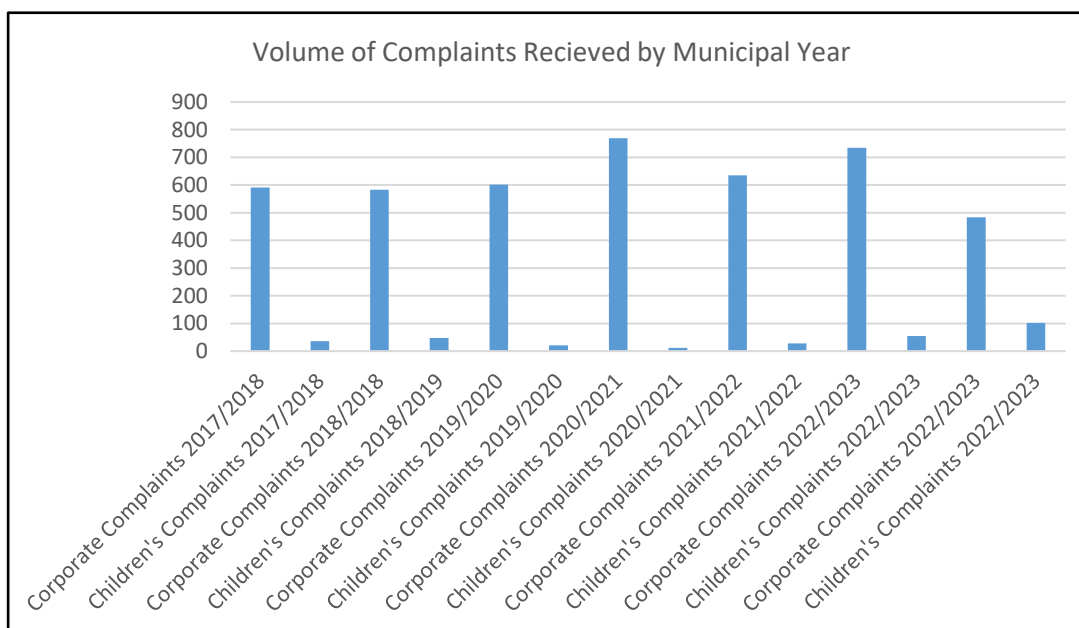
www.herefordshire.gov.uk/downloads/file/1334/corporate-complaints-policy

16. 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.
17. 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.
18. The LGSCO themselves publish statistics by financial year. The review of complaints received by the LGSCO covering 1 April 2023 to 31 March 2024 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, 55 complaints were referred to the LGSCO of which they considered 10. This means 80% of complaints the LGSCO investigated were upheld. This compares to an average of 79% in similar organisations.

Authority	Number of complaints considered	Complaints upheld
Isle of Wight	12	67%
Rutland	2	100%
Cheshire West and Chester	19	62%
Northumberland	26	69%
East Riding of Yorkshire	19	89%
Herefordshire	10	80%
Shropshire	24	79%
Cornwall	43	77%
Wiltshire	26	62%

North Somerset	15	80%
Cheshire East	25	76%
Bath and North East Somerset	5	80%
Solihull	5	100%
Central Bedfordshire	10	70%

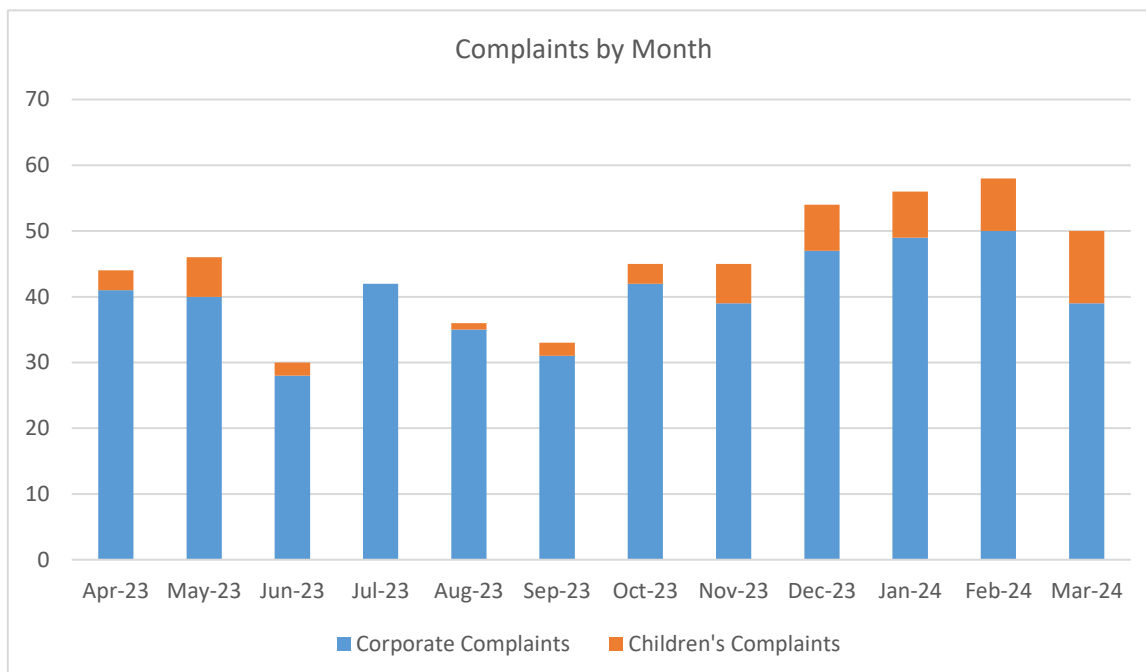
19. The LGSCO cases that were upheld against the council are set out on the LGSCO website which is at www.lgo.org.uk/decisions
20. In 100% of cases the council has complied with the recommendations made by the LGSCO to resolve the case. In some cases compensation was recommended. The council paid out a total sum of £250 as advised by the LGSCO for the period of 1 April 2023 to 31 March 2024, a notable decrease from the £2200 paid to complainants 1 April 2022 to 31 March 2023.
21. 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.



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

Month	Volume of complaints
April 2023	41 corporate complaints and 4 children's complaints
May 2023	40 corporate complaints and 8 children's complaints
June 2023	28 corporate complaints and 10 children's complaints
July 2023	42 corporate complaints and 10 children's complaints
August 2023	35 corporate complaints and 7 children's complaints

September 2023	31 corporate complaints and 10 children's complaint
October 2023	42 corporate complaints and 6 children's complaint
November 2023	39 corporate complaints and 10 children's complaints
December 2023	47 corporate complaints and 2 children's complaints
January 2024	49 corporate complaints and 10 children's complaints
February 2024	50 corporate complaints and 7 children's complaint
March 2024	39 corporate complaints and 18 children's complaint



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.

This report is for information only and therefore there are no equality duty implications arising directly from this report.

Resource implications

28. 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

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

Risk management

30. 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

Not applicable.

Appendices

None.

Background papers

None identified.