

Report To: Corporate Governance Committee

Date of Meeting: 15th June 2016

Lead Member / Officer: Barbara Smith – Lead Member for Modernisation
Alan Smith – Head of Business Improvement & Modernisation.

Report Author: Alan Smith

Title: SIRO report for 2015/16

1. What is the report about?

The report covers the period April 2015 to March 2016 and details breaches of the data protection act by the Council that have been subject to investigation by the Senior Information Risk Officer (SIRO – in DCC this is the Head of Business Improvement & Modernisation). It also covers complaints about the Council relating to Freedom of Information legislation that have been referred to the Office of the Information Commissioner (ICO), and provides some information about the Access to Information/FOI requests made to the Council.

2. What is the reason for making this report?

The Council's Data Protection Policy requires an annual report on progress to the Corporate Governance Committee to allow Member oversight of the process.

3. What are the Recommendations?

The contents of the report should be noted by the Committee.

4. Report details.

Alongside the Data Protection Officer, the Senior Information Risk Owner (SIRO) has an explicit responsibility to ensure that information held by the Council is managed safely, effectively and in accordance with the legislation. The systems designed to ensure that these roles are carried out successfully depend on transparency and openness, so it is especially important that Members have an oversight of the process.

I am pleased to report that there have been no significant breaches of the Data Protection act in the Council during the 2015/16 year. Although five instances where personal data had been lost or compromised were reported to the SIRO and investigated, none were serious

enough to warrant reporting to the ICO. This is an improving trend: we had to report 2 serious breaches to the ICO in 14/15 and 4 in 13/14. Of the 5 breaches that did occur in DCC in 2015/16, the information was recovered quickly in each case and no significant harm resulted. Three of these breaches involved personal data being sent to the wrong address; one involved personal information stapled to other correspondence in error and one involved personal information left on a photocopier by a DCC employee at a one stop shop.

As a consequence, one of the outcomes of the SIRO investigations has been an increased focus on the systems and processes in the teams where these breaches have occurred. Workshop sessions have been held with the admin. support teams in Childrens' Services and in Education to explore how their processes could be reviewed and how to ensure that the information they held was kept up to date by other professional groups. A number of practical initiatives have emerged, including the improved use of mail merge functions within the PARIS ICT system, the use of 'window' envelopes so that addresses do not have to be rewritten, and further work initiated with professional groups to improve their own recording processes.

New Data Protection Act

It is worth Members noting that the new General Data Protection Regulations (GDPR) are expected to be published during July 2016. There is then a 2 years transition period before they become enforceable in 2018. Four years in the making, these regulations will replace the current Data Protection Act 1998. The GDPR are expected to be very similar to the current Data Protection Act 1998 but include some new requirements that will require Data Controllers (including the Council) to consider and have the right people, processes and procedures in place ready for 2018:

- Larger fines for serious Data Protection breaches. Maximum fine will be 20 million Euros (currently £500k).
- Each Data Controller must have a nominated Data Protection Officer who should be enabled to make impartial decisions.
- Subject Access Requests will be free and must be responded to within 1 month (currently £10 with 40 days' timescale)
- Mandatory notifications of serious Data Protection breaches.
- Greater emphasis on ensuring that all sharing of personal data has a legal basis.
- Mandatory documentation, particularly the need to undertake Privacy Impact Assessments and the creation of Information Asset Registers.
- Greater emphasis on collecting explicit consent from individuals i.e. individuals have to opt-in rather than opt-out.

When DCC shares personal information with its public sector partners, the arrangement is made within the context of a WASPI agreement (Wales Accord on Sharing Personal Information), which the Council has signed up to. The new regulations will place greater emphasis on organisations demonstrating the legal basis for sharing information in future, but this should be possible within the current WASPI arrangements.

Freedom of Information (FOI) and Environmental Information Regulation (EIR) requests.

There has been a total of 1,236 requests during the 12 months to 31st March 2016. Again, this figure marks an increase on last year (+8%), with higher numbers of both EIR and Subject Access requests, however, there does seem to have been a welcome bottoming out in the level of FOI requests. Of these, 93% were answered within the 20 day standard and 897 were granted either in full or in part. The main reasons for refusing a request were either that we didn't hold the information requested or that it was already publicly available elsewhere.

Table 1: Number of completed requests for 2015/16 and 2014/15

	FOI	EIR	total	DP	Further total
14/15	880	127	1007	131	1138
15/16	871	183	1054	182	1236

The FOI and EIR requests are concentrated on some areas more than others and as before, are predominantly business related or from individuals. The most frequent requesters over the last 12 months are set out in the table below.

Table 2: 2015-2016 Applicant type

Applicant Type	No. of Requests
Academic	18
AM/MP	104
Business	181
Charity/Lobby Group	56
Councillor	2
Individual	494
Media	153
NHS	1
Other Authorities	22
Solicitors	11
Union	12
Total	1054

In some cases, decisions regarding access to information were challenged by the requestor or there was disagreement internally about whether information held by the Council should be released or not. These cases were reviewed by a Panel chaired by the Head of Legal, HR and Democratic Services. The panel met 7 times during the year and reviewed 14 cases. Appendix A is a list of these, along with the outcome of each review.

In the 15/16 period, no complaints about the Council under the FOI Act were investigated by the Information Commissioner's Office, as compared with three in 14/15. As a response to last year's complaints, procedures were improved to ensure that complex cases were

recognised early on in the process so that timely responses could be made, and it would seem that this action has improved the Council's performance.

It is worth noting that managing FOI/EIR and DP requests continues to present a resource cost to the Council, with an officer engaged full time on this, In addition, considerable work is delivered within Services by the IMOs (Information Management Officers), who provide the detailed answers for each question.

5. How does the decision contribute to the Corporate Priorities?

This report supports the Council's objective to modernise, but is not directly linked to a corporate priority.

6. What will it cost and how will it affect other services?

There are no financial implications to consider.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.

No assessment is required as this report is for information only.

8. What consultations have been carried out with Scrutiny and others?

None, this report is for information only.

9. Chief Finance Officer Statement

Not required

10. What risks are there and is there anything we can do to reduce them?

The action of members scrutinising this report is part of the process of mitigating the corporate risk relating to information management.

11. Power to make the Decision

No decision is required.

Appendix A: Access to Information Panel Meetings 2015-16

Date of Access to Information Panel meeting	Issue	Outcome
16/04/2015	FOI 4443 – Landlords and Housing Benefits	Landlords to be consulted
	FOI 4482 – Sbectrwm Report	Section 22 (future publication)
01/05/2015	FOI 4443 – Landlords and Housing Benefit	Disclose all information. (recent ICO decision)
	FOI 4524 – Council Tax Credit Balances	Addresses disclosed. Executors' names withheld. (Recent ICO decision)
02/07/2015	FOI 4647 – Councillor's Resignation Letter	Disclose Letter (redact address)
	FOI 4757 – Empty Properties	Section 31 exemption (prevention of crime) confirmed for residential properties. S40 (2) confirmed for owner's names (personal data).
	FOI 4770 – Care Homes	More information required from Service (Final outcome – partial Section 43 – commercial sensitivity)
	FOI 4728 – Improvement Notices	Officers names not to be withheld under Section 40 (2) (personal data)
	EIR 564 – Waste Management Contracts	Section 43 (Commercial Sensitivity) to part of the request
25/08/2015	FOI 4775 – Public Health Funerals	Section 22 (future publication) Section 31 (prevention of crime)
17/12/2015	FOI 137 – Licensed Venues	Section 12 (appropriate limit) and Section 40 (2) (personal data)

17/03/2016	FOI 404 – Suspensions.	Section 40 (2) (personal data) confirmed for parts of the request
31/03/2016	Multiple Requests from One Individual	Section 12 (appropriate limit). Section 14 (vexatious)
	FOI 721 – Food Franchise Agreement	Section 43 (commercial sensitivity)