

<b>Report to</b>	Governance and Audit Committee
<b>Date of meeting</b>	23 November 2022
<b>Lead Member / Officer</b>	Lead Member for Corporate Strategy, Policy and Equalities and Barry Eaton, Interim Head of Business Improvement & Modernisation
<b>Report author</b>	Barry Eaton, Interim Senior Information Risk Owner (SIRO)
<b>Title</b>	<b>SIRO report for 2021-22</b>

## 1. What is the report about?

1.1 The report covers the period **April 2021 to March 2022** and provides information on the Council's information governance. This includes information about data breaches of the Data Protection Act that have been subject to investigation by the DCC Senior Information Risk Officer. The report also covers data about Freedom of Information, Environmental Information and Data Protection requests received by the Council, including those that have been referred to the Information Commissioner's Office (ICO). The report also includes information about Denbighshire's schools.

## 2. What is the reason for making this report?

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

## 3. What are the Recommendations?

3.1. That the contents of the report are 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 oversight of the process.

The report this year has more information than in previous years due to the Council's increased investment in the safe management of data, including:

- Greater engagement with Schools
- Additional dedicated officer time made available in Legal Services
- An effective cross-council collaboration in the form of the Information Governance Group, chaired by the Council's Senior Information Risk Officer
- Awareness raising across all services through training and dedicated support

Even despite these improvements, data breaches still occurred, and these are described below, along with the information of the Council's role in managing Freedom of Information Requests, Environmental Information Requests and Data Protection requests (Subject Access Requests).

#### 4.1 Data Protection Breaches

Between April 2021 and March 31st, 2022 there were 36 data incidents involving personal data, an increase on last year when there were 22.

**Table 1: Data protection breaches notified during 2021/22**

<b><u>Reason for breach</u></b>	<b><u>Quantity</u></b>
Incorrect email recipient	15
Incorrect letter recipient	12
Pre-populated template sent as an email or letter attachment, rather than a blank copy	4
Group email addresses visible in CC field, rather than BCC field	1
Call transferred externally, rather than internally	1
Incorrect message recipient on work mobile phone	1
Incorrectly redacted information	2

Although none of these incidents was considered reportable (to the Information Commissioner’s Office), it is still a significant increase. The underlying cause of these is essentially human error, but as SIRO I have some concerns that these instances have become more common because most office based staff have been working away from the office during the year, and they have therefore not had access to the same checking processes in place at their normal place of work. To counter this, new procedures for remote ‘checking’ are being explored, including:

- Whether it is possible for Microsoft Outlook to stop automatically formulating external email addresses in the recipient section – ongoing, IT
- Whether it is possible for a pop up to appear on Microsoft Outlook to confirm whether the sender wants to send the email (as it does when an email has no subject, without an attachment etc.) when addressed to an external recipient – ongoing, IT
- When reports are being printed by Business Support Staff on behalf of another member of staff who is not in the office, this report is printed and scanned back to the relevant member of staff to check, prior to the report being posted – ongoing, Social Services

Refresher training on data protection has been launched for all staff, which includes advice on managing data safely when working away from the office.

#### **4.2 Freedom of Information (FOI) and Environmental Information Regulation (EIR) Requests**

There were a total of 1009 FOI and EIR requests during the 12 months to 31<sup>st</sup> March 2022.

**Table 2: Number of completed requests for 2014/15 to 2021/22**

<b>Year</b>	<b>Total Requests Received</b>	<b>Number Within Deadline</b>	<b>Percentage Within Deadline</b>
<b>14/15</b>	<b>1138</b>	<b>1038</b>	<b>91%</b>
<b>15/16</b>	<b>1236</b>	<b>1153</b>	<b>93%</b>
<b>16/17</b>	<b>1331</b>	<b>1281</b>	<b>96%</b>
<b>17/18</b>	<b>1367</b>	<b>1303</b>	<b>95%</b>
<b>18/19</b>	<b>1500</b>	<b>1425</b>	<b>95%</b>
<b>19/20</b>	<b>1261</b>	<b>1221</b>	<b>96%</b>

<b>20/21</b>	<b>1196</b>	<b>1010</b>	<b>84%</b>
<b>21/22</b>	<b>1009</b>	<b>880</b>	<b>87%</b>

FOI and EIR requests decreased significantly during 21/22, down 12% on 20/21, with the pandemic being the primary cause (redeployment of staff and staff absence). This year requests have risen to close to 100 a month this year, which is similar to the 2019 levels of requests. Requesters who had disappeared during the pandemic have returned, notably political parties and businesses.

The ICO require at least 90% of FOI and EIR requests to be responded to within deadline. We have not met this target for the last two years because of the impact of the pandemic; response rates of 84% and 87% are satisfactory given the circumstances.

#### **4.3 Data Protection Requests (Requests for personal data)**

Received total: 203

Subject Access Requests: 87

Exemption Requests: 116

Within assigned deadline: 183 (90%)

Caveat:

- Children’s Services figures are now included in the above statistics - they were excluded in previous years. Higher statistics are evident for Children’s because Data Protection cases are more likely to be recorded centrally since the Children’s process restructure circa October 2021.
- Police requests don’t technically have a statutory “deadline” date like SARs do (more an expectation of “as soon as possible”). They have been recorded here as “Out of Deadline” if they go over a calendar month.
- Total response stats are just over 90% for the year. However, it remains difficult, since the start of the Covid period, to get hold of data from services allowing sufficient time to assess, redact and query for disclosure within deadline.

#### **4.4 Internal Reviews**

In some cases, decisions regarding access to information were challenged by the requester and an internal review was undertaken.

For FOI and EIR requests there were 15 of these over the last 12 months, 10 of which were all or partially upheld. There was a 37% decrease in internal reviews from a high of 24 last year. This is partly due to the decrease in the number of requests, but there also seems to have been less appetite for challenges to responses. There was an increase in the number of complaints that were partially upheld – due mainly to more information being found after the original response had been sent. Steps have been taken to limit this happening.

There is no statutory internal review under Subject Access, however, the ICO do recommend a review process. One such review took place and the request was rejected as being excessive and unfounded.

Where issues cannot be resolved directly with the requester, or where they are complex or sensitive cases, they can be considered by the Access to Information Panel, chaired by the Head of Legal, HR and Democratic Services. The Panel resolved one such matter by email during the year, the decision being to remove a business rates dataset from the website to reduce the risk of fraud.

#### **4.5 Welsh Language Commissioner Complaint**

There was one complaint to the Welsh Language Commissioner about a delay in dealing with a Welsh Language EIR request. The Council have responded that the request was delayed largely owing to staff leave, and also to EIR legislation, and the number of records to be disclosed. The request was therefore not delayed because it was a Welsh Language request.

#### **4.6. Information Commissioners Office**

The ICO investigated one complaint about an EIR request submitted to the Council in 2020, and published their decision on their website in December 2021. The exemptions the Council applied were upheld, however, we were criticised for not responding to the requester within the statutory deadline. The ICO investigation caused approximately 100 hours of work ( in addition to the many hours spent on the original request and internal review). IC-70644-T2D5

<https://icosearch.ico.org.uk/s/search.html?collection=ico-meta&profile=decisions&query=denbighshire>

The ICO also investigated a subject access request and found there had been an inappropriate delay in disclosure. The complaint was accepted and resolved at the time of the request. Additional training was implemented with Revs & Bens teams before the ICO contacted DCC. A full explanation was provided to ICO who took no further action.

There are three more data protection cases from 2021 which may result in ICO involvement – all three were large and complex subject access requests.

#### **4.7 Schools**

The Council now has a Deputy Data Protection Officer working exclusively with schools, and this has meant we have much better information on this sector. Schools are individually responsible for the way their data is managed and are their own data controllers, but the Council clearly has an interest in supporting them to achieve the highest standards in relation to data protection. We do this in all kinds of ways, including advice and access to our policies and procedures.

#### **4.8 Data Breaches in schools**

There were a total of 6 minor data breaches for the period April 2021 to March 2022 – none reportable to the ICO.

Similar to last year, the breaches resulted from pupil information being sent via post or email to the incorrect parent, or emails sent disclosing parents personal email addresses

to all recipients, (not using bcc). There was 1 case of loss of data due to an IT issue and that data being unrecoverable.

#### **4.9 Freedom of Information and Data Protection requests to Schools**

A total of 5 FOI requests were received by various schools.

1 FOI request was made to all schools, 3 further requests made to all Secondary schools and 1 further request to 1 school.

A total of 15 Subject Access requests (requests for personal information) were made to schools

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

5.1 This report supports the Council's objective to be efficient and effective, but is not directly linked to a corporate priority.

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

6.1. The report is for information only

### **7. What are the main conclusions of the Well-being Impact Assessment?**

7.1. A WBIA is not required.

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

8.1. N/A

### **9. Chief Finance Officer Statement**

9.1. Not Required

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

10.1 Although this report is for information only, there would be a risk to the Council if proper information management and data protection systems are not maintained. Committee oversight is an important element of ensuring that our systems are effective.

### **11. Power to make the decision**

11.1.1. No decision is required