

<b>SUBJECT:</b>	<i>Freedom of Information Management and RIPA Annual Report</i>
<b>REPORT OF:</b>	<i>The Chairman of the Joint Information Governance Group</i>
<b>RESPONSIBLE OFFICER</b>	<i>Director of Resources Head of Business Support</i>
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<b>WARD/S AFFECTED</b>	<i>All</i>

### 1. Purpose of Report

To provide Members with an update on the public engagement with the Freedom of Information Act 2000, Environmental Information Regulations 2004, the Data Protection Act 1998, the Transparency Code of Practice, the INSPIRE Regulations, RIPA, Protection of Freedoms Act 2012.

### RECOMMENDATION

**To note the report.**

### 2. Executive Summary

This report is a reflexive analysis of the past year's FOI and EIR progress and activities in response to requests processed by the Council.

### 3. Reasons for Recommendations

This report is to inform Members about the number of requests received and the response rate.

### 4. Freedom of Information Requests

**The service areas that received the most FOI requests were Healthy Communities, Business Support and Customer Services. The majority of requests are for commercial information that would be useful for businesses.**

**The busiest months of the year for FOIs were**

**January, February and June**

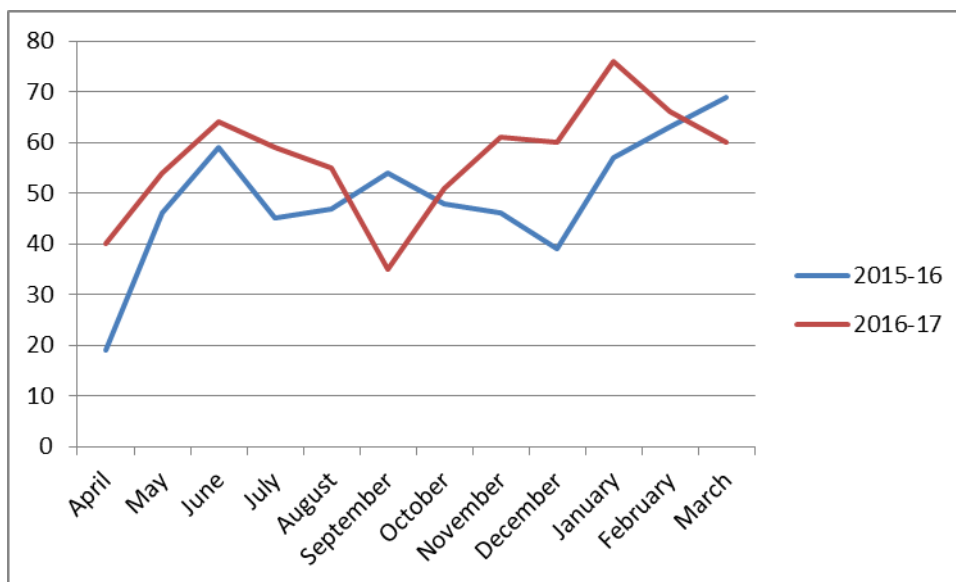
**The quieter months of the year for FOIs were**

**April, September and October**

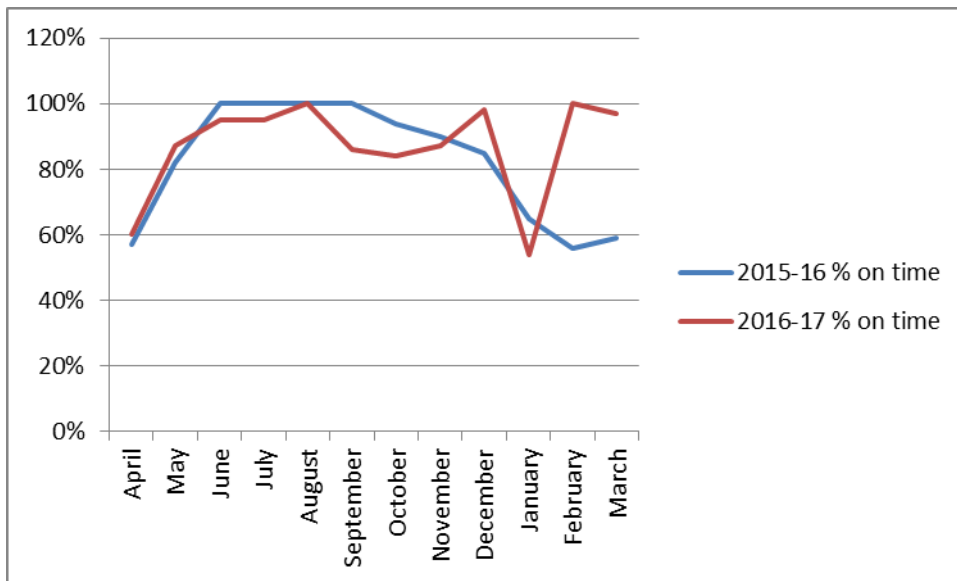
**CDC FOI REQUESTS RECEIVED OVER THE LAST FINANCIAL YEAR**

CDC	Financial Year 2015-2016 Number Requests	% requests Within 20 Working Days	Financial Year 2016-2017 Number Requests	% requests Within 20 Working Days
April	19	57%	40	60%
May	46	82%	54	87%
June	59	100%	64	95%
July	45	100%	59	95%
August	47	100%	55	100%
September	54	100%	35	86%
October	48	94%	51	84%
November	46	90%	61	87%
December	39	85%	60	98%
January	57	65%	76	54%
February	63	56%	66	100%
March	69	59%	60	97%
Year Totals	592	82% average	681	87% average
Requests received equals 15% increase on year 2015-2016				

**Chiltern District Council Number of Requests Received**

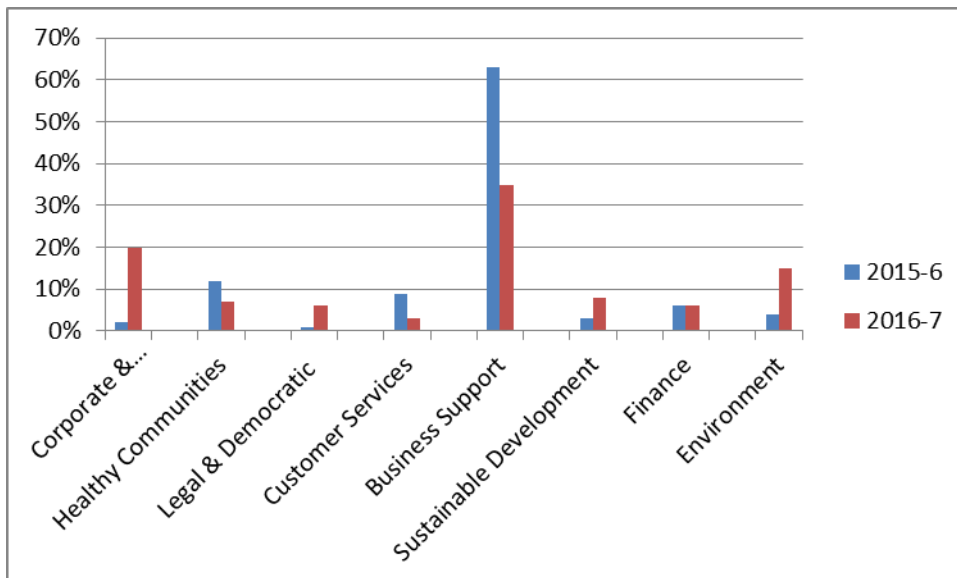


**Chiltern District Council % response within 20 working days**



**Chiltern District Council**

**Breakdown of the volumes received by service area**



Healthy Communities receive many requests for housing, licencing, environmental health, community safety and leisure. Business Support Officers encourage all service areas to publish and make available data sets that are frequently asked for on each Council's website. For example Licensing data is now available in electronic format and open for public inspection.

The Local Government Association (LGA) has been promoting and supporting digital transformation and transparency. The Council accordingly is increasingly publishing its data sets, to enhance proactive transparency and by making more information publicly available and to promote the effective operation of FOI in the public interest. This work is on-going.

The FOIA Code of Practice under section 45 has been updated and guidance for practitioners has now been published by the ICO. There is more emphasis on openness about certain types of information and withholding information will be harder to justify. The code provides guidance on the practice it would be desirable for public authorities to follow to meet their obligations under FOIA. Adhering to the code will result in positive benefits for an authority, and in practical terms offer good customer service.

## **5. RIPA**

The Regulation of Investigatory Powers Act 2000 (RIPA) addresses human rights issues arising from the carrying out of surveillance and the accessing of communications data by local authorities and other law enforcement agencies. On the 1st September 2017, The Office of Surveillance Commissioners, The Intelligence Services Commissioner's Office and The Interception of Communications Commissioner's Office were abolished by the Investigatory Powers Act 2016. [The Investigatory Powers Commissioner's Office \(IPCO\)](#) is now responsible for the judicial oversight of the use of covert surveillance by public authorities throughout the United Kingdom.

Chapter 2 of Part 2 of the Protection of Freedoms Act 2012 [POFA] (sections 37 and 38) came into force on 1 November 2012. The procedure for the authorisation of local authority surveillance under the Regulation for Investigatory Powers Act 2000 (RIPA) changed and now requires magistrate's prior authorisation. There were no Regulation of Investigatory Powers Act 2000 (RIPA) investigations conducted for the year 2016 at CDC or SBDC.

## **6. Links to Council Policy Objectives**

6.1 The aim is to support corporate information management policy, information governance procedures and strategy.

6.2 The objective is to inform Members and senior management of the response to statutory duties that aligns with the code of Corporate Governance ensuring openness and transparency, encouraging better community engagement and supporting economic activities, thus empowering citizens through increased access to information.

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<b>Background Papers:</b>	<b>ICO Model Publication Scheme 2013</b> <b>The Protection of Freedoms Act 2012 (POFA)</b> <b>Regulation of Investigatory Powers Act 2000 (RIPA)</b> <b>Freedom of Information Act 2000 (FOIA)</b> <b>Environmental Information Regulations 2004 (EIR)</b> <b>Data Protection Act 1998 (DPA)</b> <b>EU General Data Protection Regulation (GDPR) 2016</b> <b>Human Rights Act 1998</b> <b>INSPIRE Regulation 2009</b> <b>PSN Local Data Handling Guidelines (August 2014)</b> <b>Re-use of Public Sector Information Regulations 2015 (ROPSI)</b> <b>Local Government Transparency Code 2015</b> <i><b>Strengthening Local Government Transparency</b></i> <i><b>Consultation on changes to the Local Government Transparency Code 2015</b></i>
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**APPENDIX**

Explanatory Background information for the applicable legislation

**(a) The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR)** give rights of access to information held by public authorities. All requests are dealt with irrespective of who has sent them and why they want the information.

EIR gives access to information and there is an express presumption in favour of disclosure. The EIR is invoked when the request is for information about the environment, specifically

- The state of the elements of the environment, such as air, water, soil, land and biological diversity;
- Emissions and discharges, noise, energy, radiation, waste and other such substances;
- Measures and activities such as policies, plans, and agreements affecting or likely to affect the state of the elements of the environment;
- Reports, cost-benefit and economic analyses used in these policies, plans and agreements;
- The state of human health and safety, contamination of the food chain and cultural sites and built structures (to the extent they may be affected by the state of the elements of the environment).

Thus, requests for planning and environmental health fall under the EIR conditions.

**(b) The Data Protection Act (DPA) 1998** establishes a legal framework of rights and duties which are designed to safeguard personal data. Under Section 7(1) of the DPA an individual only has a right of access to information held about them and not to information relating to other people. It provides a right to see the information contained in personal data, rather than a right to see or have copies of the documents that include that information.

These requests are more commonly referred to as subject access requests (SARS). A data controller has 40 calendar days in which to provide the requested data. The data controller is allowed to ask for proofs of identity and charge a fee of £10. Processing can only begin once the identity is validated and payment cleared. These requests take an average of 10 working days of officer time to process, (ie £1,800 cost). They are very time intensive to process, which includes the retrieval, collation, and redaction of third-party data. If the requester is not happy with the response they can make a complaint to the ICO.

(c) **The INSPIRE Regulation 2009** provides a technical standards framework to publish geospatial information. The INSPIRE Regulations confer a statutory duty on councils to provide access to its geographical information systems (GIS) and make available via the GIS mapping technology spatial data sets relating to environment and society within its district area under the provision of the INSPIRE Regulations.

The European INSPIRE Directive requires that Member States provide public access to location based data related to the environment. Council data sets will be uploaded Data.Gov.uk to support the UK location infrastructure data. The public will be able to find, share and reuse, location data, including all data published under the INSPIRE Directive.

INSPIRE is based on a number of common principles:

- Data should be collected only once and kept where it can be maintained most effectively.
- It should be possible to combine seamless spatial information from different sources across Europe and share it with many users and applications.
- It should be possible for information collected at one level/scale to be shared with all levels/scales; detailed for thorough investigations, general for strategic purposes.
- Geographic information needed for good governance at all levels should be readily and transparently available.
- It should be easy to find what geographic information is available, how it can be used to meet a particular need, and under which conditions it can be acquired and used.

The Department of Environment, Food and Rural Affairs (DEFRA) is the lead Department in the UK for implementing the INSPIRE Directive, which they propose to do in conjunction with the UK Location Strategy. DEFRA have set up a cross-government governance body – the UK Location Council. Its responsibilities in relation to INSPIRE will include:

- Co-ordinating implementation and ongoing operations;
- Providing contact point for the European Commission;
- Compiling and submitting 3-yearly monitoring reports to EC;
- Co-ordinating UK representation to INSPIRE Committees and working groups;
- Collating material on costs and benefits of the Implementing Rules;
- Responsible for central communications;
- Providing policy and technical guidance to support public authorities in meeting their obligations;
- Promoting skills development.

Work across SBDC and CDC with support from seconded specialist AVDC GIS officer within Business Support continues in order to optimise and develop existing skills, and to benefit from local officer knowledge and to achieve publishing of required GIS datasets.

**(d) Local Government Transparency Code 2015** from the Department for Communities and Local Government (CLG) has established the Local Government Transparency Code. This code has been issued using the powers in section 2 of the Local Government, Planning and Land Act 1980 to issue a Code of Recommended Practice requiring local authorities to publish specific information and the code sets out requirements for the following categories of information which must be published:

- Spending on corporate GPC cards on quarterly basis including:
  - date of the transaction
  - local authority department which incurred the expenditure
  - beneficiary amount
  - Value Added Tax that cannot be recovered
  - summary of the purpose of the expenditure, and
  - merchant category (eg computers, software, etc)
- Expenditure exceeding £500 on a quarterly basis



- Procurement information

The council is required to publish details of every invitation to tender for contracts to provide goods and/or services with a value that exceeds £5,000. For each invitation, the following details must be published: reference number; title; description of the goods and/or services sought; start, end and review dates; and local authority department responsible.

The council must also publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000

- Detail of money raised from parking charges
- Information in relation to trade unions including 'facility time'
- Information on council contract and tenders to make it easier for small and medium firms to bid for work
- Property assets
- Local authority land

The council must publish details of all land and building assets including all service and office properties occupied or controlled by user bodies, both freehold and leasehold; any properties occupied or run under Private Finance Initiative contracts; all other properties they own or use, for example, hostels, laboratories investment properties and depots garages unless rented as part of a housing tenancy agreement; surplus, sublet or vacant properties; undeveloped land; serviced or temporary offices where contractual or actual occupation exceeds three months; all future commitments, for example under an agreement for lease, from when the contractual commitment is made.

Information to be published annually:

- Local Authority land
- Social housing assets
- Grants to voluntary, community and social enterprise organisations
- Organisation chart
- Trade union facility time
- Parking account
- Parking spaces
- Senior Salaries
- Constitution
- Pay multiple
- Fraud
- Contracts register