

Overview and Scrutiny Committee

| | |
|----------------------------|---|
| SUBJECT: | <i>Freedom of Information Management and RIPA Annual Report</i> |
| REPORT OF: | <i>The Chairman of the Overview & Scrutiny Committee</i> |
| RESPONSIBLE OFFICER | <i>Director of Resources Head of Business Support</i> |
| REPORT AUTHOR | <i>Zoë Bloomfield, 01895 837357, zoe.bloomfield@southbucks.gov.uk Corporate Information Manager</i> |
| WARD/S AFFECTED | <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 categorisation of the requester type.

4. Freedom of Information Requests

Cumulative percentage for year 2015/16 - total received was 555 of which 434 were responded to within 20 working days 86%. The service areas that received the most FOI requests were Healthy Communities, Business Support and Customer Services.

From the table below during 2015/16 we observed the number of requests received has fallen. The majority of requests are for commercial information that would be useful for business.

The busiest months of the year for FOIs are

January
February
March

The quieter months of the year for FOIs are

September
December
June

SBDC FOI REQUESTS RECEIVED OVER THE LAST 5 FINANCIAL YEARS

| | 2015-16 | 2014-15 | 2013-14 | 2012-13 | 2011-12 |
|--------------------|------------|------------|------------|------------|------------|
| Yearly % increase | -9% | -0.3% | 37% | 15% | 14% |
| April | 41 | 72 | 40 | 29 | 19 |
| May | 40 | 58 | 29 | 46 | 26 |
| June | 52 | 31 | 42 | 36 | 25 |
| July | 42 | 47 | 48 | 60 | 26 |
| August | 41 | 66 | 54 | 29 | 35 |
| September | 53 | 35 | 33 | 23 | 22 |
| October | 48 | 46 | 37 | 27 | 34 |
| November | 43 | 49 | 65 | 34 | 47 |
| December | 24 | 33 | 51 | 19 | 25 |
| January | 53 | 59 | 90 | 57 | 42 |
| February | 54 | 62 | 69 | 46 | 40 |
| March | 64 | 48 | 50 | 39 | 47 |
| Year totals | 555 | 606 | 608 | 445 | 388 |

Customer Services were getting so many requests for business rates data they began publishing these data sets from April 2015 so that requesters are signposted to the information which means the response time has been significantly reduced. The updates are now published on a quarterly basis.

The Local Government Association (LGA) has been promoting and supporting digital transformation and transparency. The Council accordingly is increasingly publishing its FOI 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.

The Cabinet Office has confirmed that a revised FOIA Code of Practice under section 45 will be developed and it is anticipated there will be more emphasis on openness about certain types of information and withholding information will be harder to justify. The first development is a further consultation exercise from the Department for Communities and Local Government (DCLG) on strengthening the Local Government Transparency Code 2015. The proposals include publication of more information about land and property assets local authorities hold onto the Government's electronic Property Information Management System; requiring existing procurement publication to be in particular forms; the costs of 'in-house' services contracts above £500k; greater detail about parking charges as well as statistics about the enforcement of parking restrictions; and mandating publication through a single landing page. Statistical Information relating to FOI is proposed. The current consultation closes on 8 July 2016 and the Commission for FOI aims to publish the new Code of Practice at the end of 2016.

4.1 The VUELIO FOI tracking systems for both SBDC and CDC councils are now in place and live. VUELIO FOI has helped to streamline 80% of the work process. It has helped to

Overview and Scrutiny Committee

bring open data and better record management practices into focus across all service areas.

The implementation of VUELIO FOI at both councils precipitated the implementation of the information governance structure in accordance with the new Public Sector Network (PSN) Data Handling Guidelines (November 2014), which provides guidance on information assurance and risk management approaches for local public services.

Each Head of Service is accountable to the Senior Information Responsible Officer (SIRO) for the accuracy and security of information assets within their respective service area and is the Information Asset Owner (IAO). Each service area now has a designated Information Asset Administrator (IAA) who reports to the IAO and is a senior officer working within the service area. A programme of monthly workshop based training began in February 2015 for all IAAs to cover all aspects of information governance and management. At the start of 2016 it was agreed with the IAAs that the frequency of the training be reduced to every two months.

Classroom based training for FOI and Data Protection induction has now been provided for SBDC and CDC officers, including temporary and contract staff by the Corporate Information Manager now working across both councils. Similarly, Data Protection induction training has been provided for all newly elected Members since June 2015.

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. The Office of Surveillance Commissioners is responsible for overseeing the use of covert surveillance by designated public authorities in the UK.

Chapter 2 of Part 2 of the Protection of Freedoms Act 2012 (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. The SBDC RIPA Policy was revised on 1 March 2016. There were no Regulation of Investigatory Powers Act 2000 (RIPA) investigations conducted for the year 2015-2016 at 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.

| | |
|---------------------------|--|
| Background Papers: | ICO Model Publication Scheme 2013 The Protection of Freedoms Act 2012 Regulation of Investigatory Powers Act 2000 |
|---------------------------|--|

Overview and Scrutiny Committee

| | |
|--|---|
| | <p>Freedom of Information Act 2000 Environmental Information Regulations 2004 Data Protection Act 1998 INSPIRE Regulation 2009 PSN Local Data Handling Guidelines (August 2014) Local Government Transparency Code 2015 <i>Strengthening Local Government Transparency</i> <i>Consultation on changes to the Local Government Transparency</i> <i>Code 2015</i></p> |
|--|---|

A P P E N D I X

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.

Overview and Scrutiny Committee

(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;

Overview and Scrutiny Committee

- 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

Overview and Scrutiny Committee

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