

## CORPORATE RESOURCES OVERVIEW AND SCRTUNY COMMITTEE

<b>Date of Meeting</b>	Thursday 7 <sup>th</sup> March 2024
<b>Report Subject</b>	Information Rights Compliance
<b>Cabinet Member</b>	Cabinet Member for Governance and Corporate Services including Health and Safety and Human Resources
<b>Report Author</b>	Chief Officer (Governance)
<b>Type of Report</b>	Operational

### EXECUTIVE SUMMARY

The Freedom of Information Act and UK General Data Protection Regulation contain statutory obligations regarding request response times. This report provides Members with performance information in relation to compliance with the response targets for Freedom of Information and Individual Rights Requests.

This report covers the first six months of 2023/24. Performance is improving but remains below the target set by the Information Commissioner's Office.

### RECOMMENDATIONS

1	That the committee notes the improvements made to date since 2020/21.
2	That the committee notes the steps proposed to improve performance in those areas where response times are below the required 80% average.

### REPORT DETAILS

<b>1.00</b>	
1.01	The Committee has requested information on how well the Council performs on its obligations to respond to freedom of information requests and individual rights requests.

This report covers compliance with expected response levels for completed information requests under the Freedom of Information Act (FOIA) and the UK General Protection Regulation (UKGDPR) and the Data Protection Act (DPA). The report will be produced twice yearly to cover a six monthly period.

Responsibility for information governance within the council is divided as follows:

- 1) The Information Governance team ensures the council has the correct policies in place, provide training, supply advice on complex enquiries, and liaise with the Information Commissioner's Office. This team also records and allocates enquiries received by the council.
- 2) Each portfolio is responsible for maintaining their records/data and responding to specific requests allocated to them.

The Information Governance team and the Council's Data Protection Officer assist the organisation by monitoring and reporting on performance against response targets. This data is reported to the GDPR Board and COT on a regular basis.

This report provides a record of Council performance within each portfolio from April – September 2023 and Council wide from 2020 to date, providing assurance where the Council is meeting its legal obligations and highlighting where improvements are required.

1.02 **Freedom of Information Act compliance**

The FOIA came into effect on 1 January 2005.

Under the FOIA, a person who makes a written request for information from a public authority which holds it is entitled to be given it, subject to certain exemptions.

1.03 The Council receives a high number of FOI requests each year compared to other councils.

	Total
FCC	1128
Anglesey	854
Denbighshire	1128
Powys	999
Ceredigion	882
Torfaen	892
Pembrokeshire	1027

If information is proactively published via a publication scheme then it is exempt from FOI requests. The Council is therefore seeking to expand the range of data in its publication scheme in order to reduce the number of requests it must answer. For example, one of the aims of the new software in Planning is to increase the level of publicly available information with a view to reducing the number of FOI requests.

1.04 The FOIA imposes a statutory obligation on the Council to respond to requests within 20 working days. This deadline can be extended in a number of circumstances.

The regulatory body, the Information Commissioner’s Office (ICO), expects organisations to answer 90% of FOIA requests within the statutory target. Failure to comply can lead to the ICO serving a decision notice on a public authority.

The table shows the Council’s performance against the ICO expected response level within this report’s six-monthly reporting period, April – September 2023.

The Social Services portfolio has received the most requests and is performing above the expected response level. Planning, Environment and Economy have also exceeded the response target.

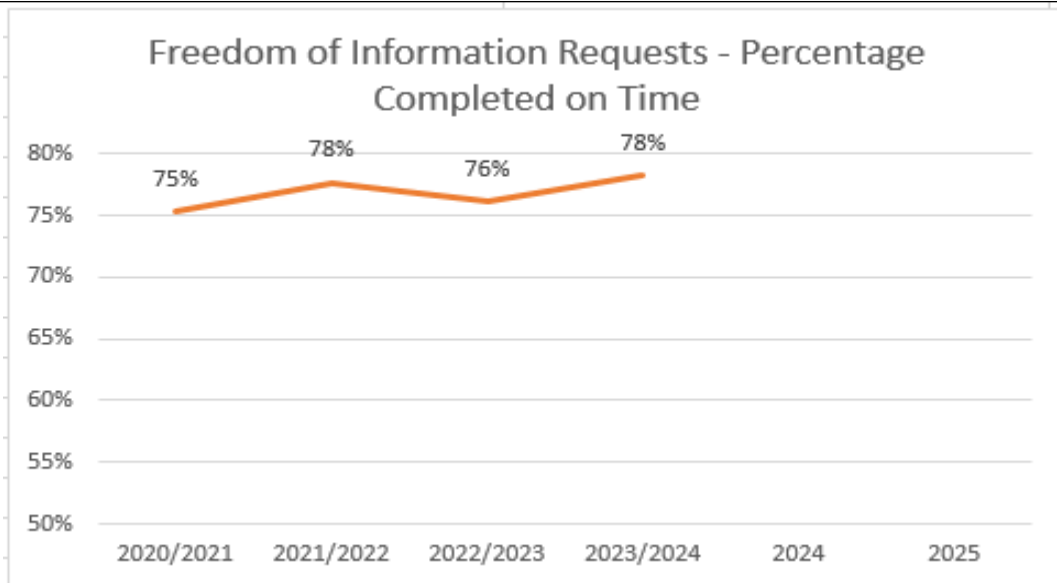
No other portfolio has met the 90% expected response level, two are nearing it with levels above 80%.

Reporting Period	01 April 2023	30 September 2023
<b>Portfolio</b>	<b>Number of Requests Completed. (in the reporting period)</b>	<b>Number of Requests Completed On time. (in the reporting period)</b>
Chief Executives	20	17 (85%)
Education & Youth	48	41 (85%)
Governance	65	46 (71%)
Housing & Communities	39	30 (77%)
People & Resources	47	27 (57%)
Planning, Environment & Economy	56	51 (91%)
Social Services	84	82 (98%)
Streetscene & Transportation	66	41 (62%)
<b>Total</b>	<b>425</b>	<b>338 (80%)</b>

1.05 The table and graph below demonstrate compliance with the FOIA expected response levels from 2020 to date.

A consistent picture of response rate level has been maintained since 2020, response rates have not changed significantly over this time.

Portfolio	Number of Requests Completed. (2020 to date)	Number of Requests Completed On time. (2020 to date)
Chief Executives	84	75 (89%)
Education & Youth	267	209 (78%)
Governance	568	421 (74%)
Housing & Communities	331	262 (79%)
People & Resources	340	206 (61%)
Planning, Environment & Economy	430	393 (91%)
Social Services	600	568 (95%)
Streetscene & Transportation	550	318 (58%)
<b>Total</b>	<b>3170</b>	<b>2452 (77%)</b>



**1.06 UK General Data Protection Act and Data Protection Act compliance**

The UK GDPR and DPA provide individuals with the right to ask for information that the Council holds about them, also known as Subject Access Requests.

The legislation also includes other Individual Rights such as the right to request to have your data deleted (right of erasure) and the right to object to your data being processed, subject to relevant exemptions.

**1.07** Once the Council has verified the requester’s identity, the statutory timescale for responding to individual rights requests is one month. Authorities can extend the time taken to respond by a further two months, if the request is complex.

The ICO expects every individual rights request to be responded to without ‘undue delay’ and at the latest within one month (unless complex). Failure to do so may result in ICO enforcement action.

The table below demonstrates that the Council has met the expected response level to individual rights requests on 60 occasions, representing a 77% compliant response rate within the April – September 2023 reporting period.

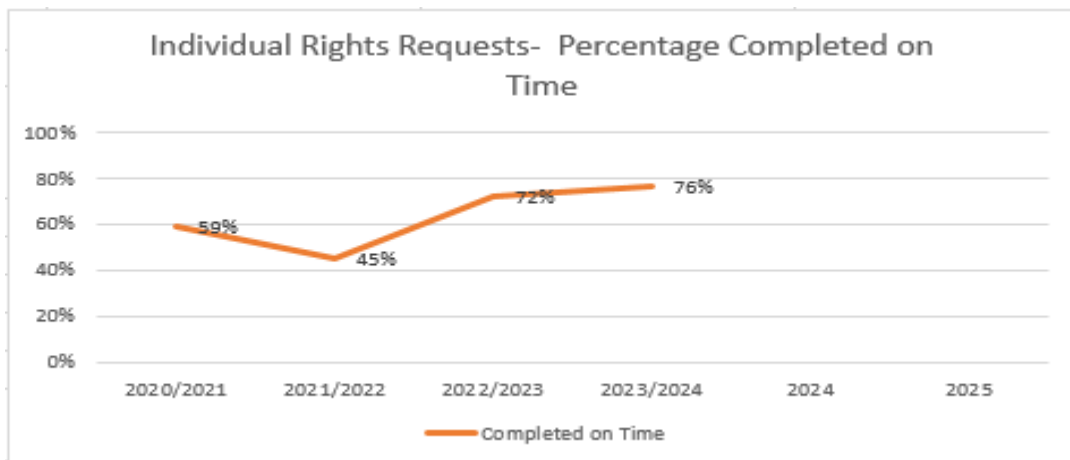
The majority of the requests received are allocated to the Social Services portfolio and their response rate is currently 95%.

Portfolio	No of Requests Completed (in the reporting period)	Requests Completed On Time (in the reporting period)
Chief Executives	9	9 (100%)
Education & Youth	3	1 (33%)
Governance	4	3 (75%)
Housing & Communities	4	0 (0%)
People & Resources	4	1 (25%)
Planning, Environment & Economy	5	3 (60%)
Social Services	44	42 (95%)
Streetscene & Transportation	1	1 (100%)
<b>Total</b>	<b>78</b>	<b>60 (77%)</b>

1.08 The table and graph below demonstrate compliance with the UKGDPR/DPA expected rate response levels from 2020 to date.

The response rate overall is improving, this is largely due to the improved response rate within the Social Services portfolio.

Portfolio	No of Requests Completed (2020 to date)	Requests Completed On Time (2020 to date)
Chief Executives	18	18 (100%)
Education & Youth	30	8 (27%)
Governance	51	34 (67%)
Housing & Communities	81	55 (68%)
People & Resources	24	7 (29%)
Planning, Environment & Economy	29	14 (48%)
Social Services	230	165 (72%)
Streetscene & Transportation	10	4 (40%)
<b>Total</b>	<b>473</b>	<b>305 (64%)</b>



1.09	<p>There are a range of factors driving the different response rates including:</p> <ol style="list-style-type: none"> <li>1) Only the social services portfolio has dedicated resource for handling data protection requests;</li> <li>2) Some services have received requests that have a wider span (e.g. all emails across the whole council mentioning me). These responses can generate literally hundreds of pages of data that must be checked individually to make all the necessary redactions of other peoples' personal data;</li> <li>3) Some services receive requests that require consideration of complex exemptions.</li> </ol> <p>The second category in particular tends to include complainants who are dissatisfied with the outcome of their complaint. They then use data protection legislation as a "fishing exercise" to seek to find imagined evidence of wrongdoing. The Council has hitherto been cautious in its use of the right to class requests as manifestly excessive. In light of such cases it is seeking to apply that label more often, but still judiciously, to requests that will have a disproportionate resource requirement. For example, one complainant (who has complained to the Ombudsman 6 times about the council) has submitted 10 DPA requests since 2021.</p>
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<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	None as a result of this report.

<b>3.00</b>	<b>IMPACT ASSESSMENT AND RISK MANAGEMENT</b>
3.01	None required.

<b>4.00</b>	<b>CONSULTATIONS REQUIRED/CARRIED OUT</b>
4.01	None required

<b>5.00</b>	<b>APPENDICES</b>
5.01	None required

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	Not applicable

<b>7.00</b>	<b>CONTACT OFFICER DETAILS</b>
7.01	<b>Contact Officer:</b> Rebecca Jones, Customer Contact Service Manager <b>Telephone:</b> 01352 702413 <b>E-mail:</b> <a href="mailto:rebecca.jones@flintshire.gov.uk">rebecca.jones@flintshire.gov.uk</a>

<b>8.00</b>	<b>GLOSSARY OF TERMS</b>
8.01	<p><b>Freedom of Information Act:</b></p> <p>An Act providing for the disclosure of information held by public authorities or by persons providing services for them.</p> <p><b>UK General Data Protection Regulation and Data Protection Act 2018:</b></p> <p>Legislations which protect natural persons with regard to the processing of their personal data and allow them to exercise their individual rights.</p> <p><b>Data Protection Officer:</b></p> <p>A statutory role as defined within UK GDPR. DPOs assist organisations to monitor internal compliance, inform and advise on data protection obligations.</p> <p><b>Individual Rights:</b></p> <p>Under the UKGDPR and DPA individuals have the following rights:</p> <p>The right to be informed</p> <ul style="list-style-type: none"> <li>• The right of access</li> <li>• The right to rectification</li> <li>• The right to erasure</li> <li>• The right to restrict processing</li> <li>• The right to data portability</li> <li>• The right to object</li> <li>• Rights in relation to automated decision-making and profiling</li> </ul>