

# Freedom of Information

## City of York Council

### Internal Audit Report 2013/14

Business Unit: Customer and Business Support Services  
Responsible Officer: Assistant Director, Customers & Employees  
Service Manager: Head of Customer Services  
Date Issued: 16<sup>th</sup> October 2013  
Status: Final  
Reference: 10390/002

	P3	P2	P1
Findings	2	4	1
Overall Audit Opinion	Limited Assurance		

# Summary and Overall Conclusions

## Introduction

Under the Freedom of Information Act (2000) it is a requirement that all public authorities give a general right of access to any recorded information they hold, except in certain cases, for example where the information is exempt or if gathering the information would exceed set cost limits.

The council has a legal obligation to proactively provide certain information under an ICO (Information Commissioner's Office) approved publication scheme. It must also respond to requests for specific information within 20 days, in accordance with the Act.

The Customer Feedback Team (CFT) took over responsibility for dealing with Freedom of Information (Fol) requests in September 2012. Between September 2012 and June 2013 the team received and dealt with 789 Fol requests. This compares with 763 requests received in the previous nine month period.

## Objectives and Scope of the Audit

The purpose of the audit was to provide assurance to management that the controls it has put in place to manage key risks relating to Freedom of Information are effective and to ensure processes in place are fit for purpose.

The audit has evaluated the following key risks:

- Reputational damage occurs and fines are imposed by the ICO due to non-compliance with the 20-day rule for providing a response.
- Requests involving multiple service areas are delayed due to a lack of ownership.
- Information available on the website does not meet the needs of users.
- Accurate, relevant and timely performance information is not always produced and made available.
- Staff responsible for providing responses to Fol requests have not been provided with sufficient guidance or training.

## Key Findings

Of the 789 completed FoI requests received since September 2012, only 510 were responded to within 20 days. This represents a response rate of 65%, which is some way below the 85% threshold used by the ICO to determine which public authorities may require monitoring or enforcement action.

## Overall Conclusions

It was found that the arrangements for managing risk were poor with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation. Our overall opinion of the controls within the system at the time of the audit was that they provided **Limited Assurance**.

## Area Reviewed: Performance against 20-day target

Severity  
Probability



### 1 Issue/ Control Weakness

### Risk

Fol requests are not being completed within the 20-day target.

Reputational damage as a result of action taken against the council by the ICO.

### Findings

789 Fol requests have been completed since responsibility passed to the CFT in September 2012. 510 of these were classified as 'in time' on Respond (CFT's system which logs requests). Therefore, only 64.6% have been responded to within the statutory 20-day target.

It is noted that for the 238 completed requests since April 2013, 70.6% were responded to within the 20-day target, so there is some evidence of recent improvement. However, according to a survey of councils carried out by University College London (UCL) in 2010, the average percentage of requests completed by unitary authorities within 20 days was 83.2%. In addition, 85% is considered by the Information Commissioner's Office (ICO) to be the threshold level, under which action could be taken.

The reasons for delay started to be consistently recorded in January 2013. Excluding requests where the reason for a late response was not recorded, 49.6% of late responses were recorded as due to a late response from the Communications Team who vet some responses before they are sent out, while 36.0% were recorded as due to delays in receiving information from the individual service areas.

Service areas do not always complete responses by the internal deadline despite chasing from the CFT. Some staff work towards the overall 20-day deadline, perhaps without recognition of the current requirement to clear some requests with the Communications Team and members.

Clear deadlines are also not established with the Communications Team and therefore responses to requests are often delayed while waiting for a response. Additionally, there are no clear guidelines about which responses should be sent to the Communications Team. It should be noted that the Communications Team's role is to provide media advice and they should not decide what is exempt; this is a decision for Heads of Service with advice provided by Veritau, as necessary. The role of members also needs to be clarified since they are currently expected to provide advice on and/or 'clear' certain responses before they are sent out.

### 1.1 Agreed Action

The following changes will be made to the Fol procedures:

- Heads of Service will be responsible for dealing with all Fol requests in their service areas
- They will be made aware of the internal deadline and will be responsible for sending

Priority

1

completed requests direct to the requestor, copying the response to the CFT

- If they do not respond to chasing from the CFT, then it will be escalated to the relevant AD/Director
- The CFT will only be responsible for collating responses and sending them out when it involves multiple service areas
- The relevant Head of Service will be responsible for deciding which requests to send to the Communications Team, for chasing them as required and for ensuring all responses are sent to requestors.

These changes will be communicated to all relevant staff.

### Responsible Officer

Assistant Director,  
Customers & Employees

### Timescale

October 2013

## Area Reviewed: Allocation of requests and Quality Assurance

Severity  
Probability



### 2 Issue/ Control Weakness

### Risk

Fol requests are currently allocated to too many members of staff.

Inappropriate and/or incomplete responses are compiled.

### Findings

When Fol requests are entered onto the Respond system, the CFT allocate it to a staff member from a dropdown list. The list has been compiled by the CFT and is based on experience and prior knowledge. The list of officers is a mixture of Assistant Directors, Heads of Service and other council officers. This means that requests are allocated to staff members at differing seniority who may not have enough knowledge about the legal framework surrounding Fol and where to go for technical advice. This can mean that replies are sent out which are inappropriate, incomplete and/or non-compliant with the legislation. This also makes it difficult to target training and advice at staff members who require it. It also means that responses are not always checked by a suitably senior member of staff.

Allocating requests to a HoS in the first instance would add consistency and quality assurance to the Fol process. It will also help to clarify who has responsibility for dealing with Fols within the council and will allow for targeted training to a smaller number of people in the future. It will also streamline escalation procedures which are currently unclear, particularly for difficult or contentious requests.

Checks are currently made on responses following publication by Veritau however a more systematic quality assurance review is not carried out. The current checks are therefore not providing assurance on the completeness and accuracy of responses or whether they comply with the legislation.

### 2.1 Agreed Action

- All Fol requests will be initially allocated to a Head of Service.

Priority

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Responsible Officer

Assistant Director,  
Customers & Employees

Timescale

October 2013

## 2.2 Agreed Action

- A sample of responses will be subject to in-depth Quality Assurance checks by Veritau and a quarterly report of the results will be taken to the Corporate Information Governance Group (CIGG).

**Priority**

2

**Responsible Officer**

Assistant Director,  
Customers & Employees

**Timescale**

December 2013

## Area Reviewed: Performance Information

Severity  
Probability



3	Issue/ Control Weakness	Risk
	Limited performance information is currently being produced.	Management does not have accurate performance information in order to monitor the performance of the council in relation to responding to Fol requests.

### Findings

At the present time, no performance information is being published in relation to Fol requests and has not been since the CFT assumed responsibility for coordinating Fol requests in September 2012.

The CFT is currently in the process of developing its systems for producing performance information. However, the system is relatively limited in scope and its main objective is to identify the volume of requests received and whether the responses are in or out of time. The information recorded in the period reviewed was also found to be incomplete and required further manual intervention.

### 3.1 Agreed Action

Performance information will be produced on a monthly basis under the following headings:

- Number of requests
- Status of requests (processed, on hold, lapsed)
- % within 20 day deadline ("in time")
- % outside 20 day deadline ("out of time") along with reasons
- % of resolvable requests granted in full
- Initial outcomes of resolvable requests (granted, fully withheld, partially withheld, response not yet provided)
- % exempted or partially exempted and the reasons for this

Priority	2
Responsible Officer	Assistant Director, Customers & Employees
Timescale	January 2014

## Area Reviewed: Roles and responsibilities

Severity  
Probability



### 4 Issue/ Control Weakness Risk

Roles and responsibilities are not clear; adequate training has not been provided. Responses are delayed due to unclear roles and responsibilities.

#### Findings

The responsibilities of the staff involved in the Fol process are not clearly defined in an internal policy or procedural document and therefore remain unclear. Staff are not always notified of the availability of Veritau as the source for any advice when they are allocated an Fol request. In addition, it is not clear that Veritau are responsible for dealing with requests for reviews or complaints in relation to the Fol process.

Training is not provided to Heads of Service and at the current time Fol requests are not distributed exclusively to Heads of Service (HoS). If distribution of Fol requests is limited to HoS, training could then be more easily delivered formally or on a more informal basis, perhaps taking the form of a drop-in advice clinic. This may be particularly effective now that the majority of council staff are located in one building.

Roles and responsibilities could also be reinforced by updating the Fol policy and developing an internal Fol procedural document to include the processes and the responsibilities of individuals. The CFT is currently developing some updated guidance and this could be incorporated within this.

Responsibilities to be clarified should include the roles of:

- The CFT
- The Communications Team
- Heads of Service
- Veritau

### 4.1 Agreed Action

The CFT will liaise with Veritau in order to provide training to all Heads of Service.

Roles and responsibilities will be clarified and documented in an internal policy or procedural document and this will be distributed to relevant staff.

Priority

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Responsible Officer

Assistant Director,  
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December 2013

## Area Reviewed: Publication Scheme

Severity  
Probability



### 5 Issue/ Control Weakness

### Risk

The Publication Scheme is not being maintained and does not meet the needs of users.

The Publication Scheme does not provide useful information in order to discourage some Fol requests.

### Findings

The council's publication scheme, and links to information available under the scheme are on the council's website. The contents of the scheme and information referred to meet the requirements of the FOI Act and the ICO; however, links to specific information do not work and require updating. Information is therefore not easily accessible to members of the public. The presentation of this could be improved to provide more information to the customer and potentially pre-empt future Fol requests.

Detailed comparisons have been made between the council's Publication Scheme and that of similar sized unitary authorities. The best example of a Publication Scheme is one that includes direct links to documents from the webpage itself rather than accessing a pdf which is the case with the council's current format. This would require fewer clicks from the user and is therefore easier to navigate.

Swindon Borough Council's Publication Scheme is presented in the form of a database on the website and would appear to be the easiest format to access. Each of the headings from the model publication scheme (e.g., "Who we are and what we do") can be searched and information is presented via direct links.

### 5.1 Agreed Action

- A link to the Freedom of Information section on the website will be placed on the front page
- The Publication Scheme will be updated to fix the broken links
- Information will be presented in a fully searchable format if possible, with the Publication Scheme presented on a webpage rather than in an attached document

#### Priority

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#### Responsible Officer

Assistant Director,  
Customers & Employees

#### Timescale

January 2014

## Area Reviewed: Disclosure Log and the Fol section of the council website

Severity  
Probability



### 6 Issue/ Control Weakness

### Risk

Previous Fol requests are not easily accessible on the council's website.

A robust disclosure log is not in place which may lead to repeated Fol requests in relation to the same subject.

### Findings

A disclosure log is not compulsory; however it is considered good practice and is recommended by the Freedom of Information Act. The council publishes responses to Fols on its website; however it is not called a disclosure log.

The website currently groups responses by the week in which they were published, however, there is no way of telling what the request relates to unless you click on a particular week and then look through the titles of the requests. It is therefore not user friendly.

A review of the arrangements adopted by a sample of similar unitary authorities identified a lot of good practice. For example, the approach followed by Peterborough City Council includes a list of requests in date order, where the title includes the date received, the subject of the request and the completion date. It is also searchable by key word. This approach could be further enhanced by including the directorate to which the request was directed.

Despite responsibility for dealing with Fol requests falling with the council, responsibility for updating the Fol section of the website still remains with Veritau. It may therefore be appropriate for the council to consider taking over the upkeep of the Fol section of the website.

### 6.1 Agreed Action

A disclosure log will be adopted which lists requests in date received order and groups them by directorate.

CFT should proactively seek to spot repeat requests and direct individuals to the information or send out the same response again.

The council will consider taking over management of the Fol section of the website from Veritau.

#### Priority

3

#### Responsible Officer

Assistant Director,  
Customers & Employees

#### Timescale

January 2014

## Area Reviewed: Published information

Severity  
Probability



### 7 Issue/ Control Weakness Risk

Information is not published in line with the Department for Communities and Local Government (DCLG)'s code of practice. Information is not published, leading to unnecessary FoI requests.

#### Findings

The DCLG made recommendations about publishing information in The Code of Recommended Practice for Local Authorities on Data Transparency. The council could improve its compliance with this code of recommended practice by publishing the following information:

- Job descriptions, responsibilities, budgets and numbers of staff for senior officers (the council currently only publishes salary data for senior staff)
- An organisational structure showing the staff structure along with salary bands and currently vacant posts (the council does publish an organisational chart but it is very basic and only goes down to AD level)
- Copies of contracts and tenders to businesses and to the voluntary community and social enterprise sector. (The Publication Scheme does make mention of the Supplier and Contract Management System (SCMS) which was a procurement website for councils within the Yorkshire and Humber region. However this closed in December 2012).
- Clearly itemised and listed grants to the voluntary community and social enterprise sector.

The ICO also requires that authorities pro-actively publish environmental information under the Environmental Information Regulations. The council currently publishes none.

### 7.1 Agreed Action

Information will be published as detailed above in line with the DCLG's code of practice and the Environmental Information Regulations.

Priority

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Responsible Officer

Assistant Director,  
Customers & Employees

Timescale

January 2014

## Audit Opinions and Priorities for Actions

Audit Opinions	
<p>Audit work is based on sampling transactions to test the operation of systems. It cannot guarantee the elimination of fraud or error. Our opinion is based on the risks we identify at the time of the audit.</p> <p>Our overall audit opinion is based on 5 grades of opinion, as set out below.</p>	
Opinion	Assessment of internal control
High Assurance	Overall, very good management of risk. An effective control environment appears to be in operation.
Substantial Assurance	Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified.
Moderate assurance	Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made.
Limited Assurance	Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation.
No Assurance	Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse.

Priorities for Actions	
Priority 1	A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management.
Priority 2	A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management.
Priority 3	The system objectives are not exposed to significant risk, but the issue merits attention by management.