

**AUDIT AND ASSURANCE
COMMITTEE**

24TH JUNE 2016

**ANNUAL REPORT
2015-16**

**INFORMATION
GOVERNANCE**

1. INTRODUCTION

1.1. The lead responsibility for Information Governance sits with the Corporate Governance unit in the Chief Executive's Directorate. A core element of the information governance function involves routinely handling complaints and information requests as well as providing an advisory and quality assurance service across the following range of services:

- Complaints that fall within the Corporate Complaints Procedure.
- Complaints that are governed by the Children Act.
- Complaints that are governed by Social Services and National Health Complaints Regulations.
- Information Requests - Freedom of Information Act (FOI)
- Information Requests - Environmental Information Regulations (EIR)
- Subject Access Requests under the Data Protection Act 1998 (DPA)

1.2. This Annual Report for 2015-16 provides service statistics and performance information for each of the services above.

2. BACKGROUND AND CONTEXT

2.1. Over recent years, including in 2015/16, the Council has had to respond to significant financial pressures and has set challenging targets for year on year reductions in a range of Council budgets in the Council's Medium Term Financial Plan. This has resulted in significant changes to services, and has coincided with an increase in requests for information and complaints about services, with limited resources in the Council to respond to such requests and deal with complaints. This increase is evident in the year on year increase for information via the Freedom of Information Act in particular. As well as an increasing volume of requests for information and complaints handled, they are often complex requiring significant work to be able to respond.

3. COMPLAINTS

3.1. The Council has 3 separate processes and procedures for handling complaints; a Corporate complaints procedure, a Children's Services procedure (in line with the Children Act), and a procedure for complaints relating to Health and Care services (in line with the Local Authority Social Services and National Health Complaints (England) Regulations 2009).

3.2. For all complaints procedures, the overarching aim is to resolve matters to the complainant's satisfaction at the earliest opportunity.

4. CORPORATE COMPLAINTS

4.1. The council has a corporate process for investigating complaints which was last reviewed and revised in 2011. The current approach empowers staff to resolve complaints informally, and wherever possible to reach a mutually agreed resolution as quickly as possible.

- 4.2. The procedure is designed to ensure as far as possible that complaints only escalate to the formal complaints process where the matter is particularly high risk or if officers have previously attempted to resolve the customer's concerns without success. Resolving complaints informally provides evidence of good customer service at a local level.
- 4.3. Within the formal Corporate Complaints Process there are two stages; the Resolution Stage and the Review Stage. The Resolution Stage consists of an investigation and action plan carried out by the relevant Senior Manager, and the Review Stage allows an independent Assistant Director to review whether everything was fully and fairly considered by the Senior Manager.
- 4.4. The table below shows the number of Corporate Complaints received in each financial year since 2012/13, together with the number and percentage of complaints resolved locally, without the need to escalate to the formal process.

Corporate Complaints	2012/13	2013/14	2014/15	2015/16
Total received	208	280	308	243
Resolved locally	102 (49%)	247 (88%)	285 (93%)	223 (92%)
Dealt with at resolution stage			17 (74%)	17 (85%)
Escalated to Review Stage			6 (26%)	3 (15%)
Total handled via formal process			23	20

- 4.5. The number of complaints received in 2015/16 was less than in the 2 previous years and the percentage of complaints resolved at informal stage (92%) was in line with last year and greater than target (90%).
- 4.6. A very small number of complaints reached review stage in the last 2 years. Action plans from Review Stage investigations are reviewed by Directorate Management Teams, ensuring that service leads are aware of the cases that have exhausted the complaints procedure, enabling further consideration to be given to how individual cases could have been resolved at an earlier point within the complaints process.
- 4.7. During 2016/17, the Service will focus on engaging with managers and teams so that relevant feedback and learning from complaints is used to improve services where appropriate.

5. CHILDREN ACT 1989 COMPLAINTS

- 5.1. Those eligible to use the Children Act 1989 complaints procedure are children and young people who are either looked after or receiving services as children in need, their parents or carers, and people denied services. The procedure is also open to those complaining on behalf of a service user, either where the service user is not capable of making a complaint or where the service user has asked a representative to act on their behalf.

5.2. There are three stages to the statutory Children Act 1989 complaint procedure.

- **Stage 1** - the local resolution/problem-solving stage. This is the stage at which the vast majority of complaints are resolved by operational staff. The council has between 10 and 20 working days to complete this stage of the process and most complaints will be dealt with at this stage without the need to progress to subsequent stages.
- **Stage 2** – when formal investigations are conducted at arm’s length from the operational teams, usually by independent, external, Investigating Officers appointed by the Council. Statutory guidance also requires the appointment of an Independent Person, external to the council, to ensure that any investigation is conducted fully and fairly. Investigation reports are received by senior managers within Children's Services and findings and recommendations form the basis of the Directorate’s formal response to the complaint. This stage should take between 25 and 65 working days.
- **Stage 3** - If there is any residual dissatisfaction with the outcome of a complaint at Stage 2, the complainant can request that a Stage 3 Review Panel hears their complaint. A Review Panel consists of three people appointed by the Complaints Team. The panel must be independently chaired and consist of two other independent panellists. The panel will be held, where possible, in a venue close to the complainant’s home, within 30 working days of any request. The panel will consider whether the council has dealt with the complaint fairly and will identify options for resolving or remedying the complaint, reporting their findings and any recommendations to the Corporate Director - Children's Services. The Director’s response to the recommendations forms the end of the council’s statutory Children Act 1989 procedure.

5.3. On conclusion of Stage 2 or 3 complaints an action plan is developed to allow tracking and monitoring of agreed actions, which are owned by senior managers.

5.4. Once complainants have exhausted the local authority procedure, they may choose to take their complaint to the Local Government Ombudsman.

5.5. The table below shows the number and percentage of Children Act 1989 complaints handled at each stage over the last 4 years:

	2012/13	2013/14	2014/15	2015/16
Complaints Received and handled at Stage 1^	142	116*	95	95
Stage 1 - Responded to within 20 Working Days	61%	75%	58%	49%
Stage 1 – Responded to within 10 Working Days	25%	41%	34%	27%

Complaints requiring Stage 2 Investigation	14	17	22	16
Stage 2 – Responded to between 25 and 65 working days	43%	29%	18%	20%
Complaints progressed to Stage 3 Review Panel	3	3	5	3

**an additional stage to the Children Act 1989 complaints process was introduced part way through 2013/14 to help reduce the number of complaints that were progressed to Stage 2 investigations. Complaints that are deemed to be easily resolvable and not of a serious nature are accepted as a concern/enquiry, with complainants retaining their right to progress to a formal Stage 1 complaint if they are not satisfied with the outcome. Concern/enquiries would previously have been handled as Stage 1 complaints.*

^Does not include complaints received that were either subsequently withdrawn by the complainant or that were unable to progress through the Children Act procedure due to ongoing legal proceedings.

5.6. In 2015/16 the rate of complaints responded to at stage 1, within 10 and 20 working days, has reduced compared with 2014/15, however the number and rate of complaints progressing to stage 2 of the process has also reduced since 2014/15. The stage 2 response rate within the 25-65 working day timeframe has risen slightly since 2014/15, however this remains well below the performance expected.

5.7. During 2016/17, the Service will continue to focus on the following priorities:

- support better management oversight of complaints, ensuring that managers continue to receive good quality and timely management information, enabling complaints to be dealt with in a way that prevents drift.
- work with Children’s Services teams to improve the timeliness of responses to Stage 1 complaints, and to further reduce the number and percentage of complaints progressing to stage 2, thereby preventing the need to appoint and meet the cost of Investigating Officers/Independent Persons who are required to investigate complaints at this stage.
- improve learning from complaints and compliments to ensure that a robust mechanism is in place for sharing potential practice development with appropriate managers in Children’s Services.

6. HEALTH AND CARE COMPLAINTS

6.1. All local authorities with social services responsibilities as well as health trusts, GP’s, dentists and ophthalmologists must by law make arrangements for dealing with complaints. The arrangements must comply with the statutory requirements as detailed in the Local Authority Social Services and National Health Complaints (England) Regulations 2009.

6.2. The statutory guidelines are intended to provide a personalised approach to complaints handling where the complainant is put at the centre of the process. The complainant is expected to contribute to a resolution plan which sets out the nature of the complaint, identifies how the complaint can be resolved, by whom and how long it will take.

- 6.3. The only timescales that are set out in the guidelines are that complaints should be acknowledged within 3 working days of the council receiving it, and there is an expectation that the majority of the complaints will be resolved within 6 months
- 6.4. The table below shows the number of complaints handled by the Council over the previous 4 years:

	2012-13	2013-14	2014-15	2015-16
Number of complaints	148	185	129	128
% of all complaints acknowledged within 3 working days	84	95	96	87
Average number of days to process complaints to completion	54	52.5	38	60

- 6.5. The Council received 128 complaints in 2015/16 which is consistent with the number received in the previous year. The percentage of complaints acknowledged within 3 working days has dipped to 87% which is the lowest rate in the previous 3 years. There was a steady improvement in the average number of working days to process complaints up until 2015, however this increased to 60 days in 2015-16, the highest average in the last 4 years.

- 6.6. During 2016/17, the Service will focus on the following priorities:

- support better management oversight of complaints at regular 'performance clinics' with the responsible assistant director and county managers, ensuring that managers continue to receive good quality and timely management information, enabling complaints to be dealt with in a way that prevents drift.
- work to improve the timeliness of contact with complainants and the average time taken to handle complaints.
- improve learning from complaints and compliments to ensure that a robust mechanism is in place for sharing potential practice development with appropriate managers in Health and Care Services.

7. COMPLAINTS TO THE LOCAL GOVERNMENT OMBUDSMAN (LGO)

- 7.1. The table below contains details of complaints made to the LGO and the status of those complaints:

Category	2013/14	2014/15	2015/16	2015/16 Commentary
Upheld	6	5	4	Financial remedy totalling £1,540
Not Upheld	5	5	2	
Incomplete/Invalid and closed	3	2	2	
Closed after initial investigation	13	12	2	
Referred back to CCC for	21	19	6	These complaints had not

local resolution or advice only				been considered fully as part of the CCC complaints process.
Live cases			7	Cases that remain with the LGO
Total	48	43	23	

7.2. The LGO upheld 4 complaints last year and directed the Council to settle complaints via a financial remedy. Remedy was set at £250, £270, £270 and £750 for each of the 4 cases.

7.3. Overall there is a marked downward trend in the number of complaints made to the LGO over the previous 3 years. The number of complaints upheld was relatively small over the same period and after discounting those that were 'referred back' to the Council the rate of complaints upheld in each of the last 3 years was 22%, 21% and 18% respectively.

8. INFORMATION REQUESTS - FREEDOM OF INFORMATION ACT

8.1. The 1st January 2016 marked the 11th anniversary of the introduction of the Freedom of Information Act 2000, and since inception the council has processed 7,842 requests for information.

8.2. There has been a steady increase in the number of requests received since the Act was introduced and the table below shows the number of requests received over the last 4 years:

FOI	2012/13	2013/14	2014/15	2015/16
Requests Received	780	972	1,076	1,168
Responses within 20 working days	70%	83%	75%	65%

8.3. During 2015/16 the Council received a record number of requests (1,168) for information under the Freedom of Information Act, however there is a downward trend in the rate of responses provided within the 20 statutory period. The target response rate for 2015/16 was 65% which is a decrease compared with 2014/15 and off target (90%). The number of requests has increased each year since the legislation was introduced in 2005.

9. INFORMATION REQUESTS - ENVIRONMENTAL INFORMATION REGULATIONS

9.1. The 1st January 2015 marked the 11th anniversary of the introduction of the Environmental Information Regulations 2004, and since inception the council has processed 1,332 requests for information.

9.2. There has been a steady increase in the number of requests received since the regulations were introduced and the table below shows the number of requests received over the period 2012/13 to 2014/15:

EIR	2012/13	2013/14	2014/15	2015/16
Requests Received	226	316	340	211
Responses within 20	70%	62%	64%	88%

working days				
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9.3. During 2015/16 the Council received the lowest number of requests (211) for information under the Environmental Information Regulations 2004 in the last 4 years. 185 (88%) requests were processed within the statutory 20 day time limit. Up until 2014/15 the number of requests had increased each year since the legislation was put in place in 2005, however that trend was reversed last year.

9.4. As expected, in 2015-16 the Environment and Community Services Directorate received the highest number of EIR requests which is due in particular to requests for Highways Transport and Fleet service information.

10. CHARGING FOR INFORMATION

10.1. The County Council has a fees policy in respect of FOI requests. The only fees that can be applied under FOI tend to be for photocopying charges, commonly referred to as *disbursements*. Even then, the Council can only charge for copying in excess of £5 under the Fees Policy.

10.2. For the year 2015/16 the Council did not issue any fee notices as the large of disclosures of information are provided by e-mail with relevant information attached if required. On occasion, requesters can visit Council offices to view files at pre-arranged time.

11. APPLICATION OF EXEMPTIONS (FOI)/EXCEPTIONS (EIR)

11.1. The Council continues to apply exemptions and exceptions using one of the 23 exemptions laid out in the Act where it is applicable. This results in a refusal to disclose information requested.

	Requests withheld or refused		
Regime	2013/14	2014/15	2015/16
Freedom of Information		180 (17%)	219 (19%)
Environmental Information Regulations	23% for both FOI/EIR	90 (26%)	57 (27%)

11.2. The most common exemption applied In 2015/16 was S21, resulting in refusal to disclose information on the grounds that it is accessible by other means. In 2013/14 this accounted for 85% of exemptions applied, in 2014/15 this accounted for 63% of exemptions, and in 2015/16 60% of exemptions.

11.3. The Council cannot charge for the provision of information, however if it is estimated that a request will incur unreasonable cost then the Council can apply an exemption under S12 of the Act and refuse a request. The threshold set by the ICO is 18 hours (equivalent to £450 at a notional hourly

rate of £25). Refusal notices were issued in response to 43 requests in 2014/15, and 44 in 2015/16. .

12. COST OF PROVIDING INFORMATION UNDER FOIA/EIR

12.1. The estimated cost of providing the service is made up of 2 elements:

- time taken by officers in Directorates to handle requests for information under FOI and EIR are gathered, and
- the cost of a centralised team that provides advice (eg on the application of exemptions and exceptions), support to prepare disclosures, quality assurance advice on the content of disclosures, and maintenance of the Council's Publication Scheme.

12.2. The table below sets out a comparison of costs over the last 2 years.

	2014/15	2015/16
Total Number of Requests	1,416	1,379
Estimated Cost of handling requests in Directorates.	£280K	£213k
Cost of the central team	£120k	£103k
Total estimated cost	£400k	£316k
FTE in Central Team	4	2.5
Estimated unit cost per request	£282	£229
ICO threshold for refusal notice	£450	£450

12.3. The overall costs of the centralised complaints and information governance team has been contained within budget for both 2015/16. During 2015/16 the overall size of the team reduced as a result of a second round of centralisation and restructure. Within the overall reduction in resources it is estimated that 2.5fte was dedicated to handling FOI/EIR in 2015/16. For both years, the estimated unit cost of handling requests was well below the threshold for applying an exemption under S12 of the Act.

13. PROACTIVE PUBLICATION AND OPEN DATA

13.1. A key focus during 2014/15 and 2015/16 was on the compliance with the Local Government Transparency Code 2015. The council has published all data mandated by the Code and it is available via the Open Data webpages on the Council's website: <http://www.cumbria.gov.uk/council-democracy/accesstoinformation/opendata/default.asp>

13.2. During 2016/17, work will continue to support Directorates to:

- respond to any new or revised requirements set out in the Local Government Transparency Code
- maximise the benefits of Open Data and proactive publication of data;
- provide assistance with the identification of relevant data source, and
- establish improved self-service for members of the public who are seeking information in a re-usable format.

14. INTERNAL REVIEWS AND REFERRALS TO THE INFORMATION COMMISSIONER

14.1. Anyone who uses FOI or EIR as a means of accessing Council information can request an internal review if they are not satisfied with a response. Internal review provides the council with an opportunity to review the request handling process prior to any potential referral to the Information Commissioner's Office by the requester. During 2015/16 the council has received the following Internal Reviews:

- Freedom of Information – 20 requests for internal review were received in 2015/16 compared with 7 in the previous year.
- Environmental Information – 6 requests for internal review were received in 2015/16 compared with 11 in the previous year.

14.2. Similarly, anyone who is not satisfied with the outcome of an Internal Review can refer their case to the Information Commissioner's Office. During 2015/16 the Council was notified of the following referrals to the Information Commissioner's Office:

- Freedom of Information – 2 referrals were made in 2015/16, the same number of referrals as 2014/15.
- Environmental Information – No referrals were made in 2015/16 compared with 7 in the previous year.

14.3. Following a referral and a subsequent case investigation, the ICO can make issue a Decision Notice requiring the Council to disclose information it may previously have refused to disclose. 3 decision notices were issued by the ICO to the Council in 2015/16. In all 3 cases the ICO required no further steps to be taken by the Council.

15. SUBJECT ACCESS REQUESTS UNDER THE DATA PROTECTION ACT

15.1. Under the Data Protection Act 1998, any person, regardless of their age, can request information about themselves from the Council. This application process is referred to as a Subject Access Request (SAR).

15.2. Information will be provided to individuals so long as it is supported with appropriate photo identification, e.g. passport, driving license, and the applicant has the capacity to understand the information provided.

15.3. All subject access requests must be responded to within 40 calendar days unless the request is unclear or ambiguous.

15.4. In 2015/16 256 Subject Access Requests were received and 161 (63%) were dealt with within the 40 day statutory period.

16. CONCLUSION

16.1. Whilst the Corporate Complaints Service has seen a significant reduction in the number of complaints received, the percentage resolved locally (92%) remains in line with the previous year. Work will continue to maintain this

positive level of performance despite the challenges facing the Council in regard to continuing budget pressures.

- 16.2. For Children's Services, the number of complaints received in 2015/16 was the same as in the previous year, however the number and proportion of complaints progressed to stage 2 has significantly reduced. The numbers progressing to stage 3 remain low, with 3 reaching the review panel stage last year. Work continues with social work teams to focus on handling complaints and resolving complaints at the earliest stage possible, avoiding the need to incur costs on independent investigators to handle and resolve complaints on the Council's behalf.
- 16.3. Whilst it is encouraging to see the number of Adult Social Care Complaints received in 2015/16 remain in line with 2014/15, attention at 'Performance Clinics' with the Assistant Director and County Managers needs to be focused on handling complaints in a more timely manner and reducing the average length of time taken to resolve complaints. Performance has dipped across the range of performance indicators in 2015/16.
- 16.4. The number of requests for information using FOI continues to increase with the number in 2015/16 exceeding the number received during 2014/15. For EIR, the number of requests received was the lowest in the last 4 years. The council continues to receive an average of over 100 requests per month and there is no indication that this upward trend will reduce or stabilise in 2016/17.
- 16.5. 2015/16 saw the Council's performance for handling FOI/IR requests within the statutory 20 day period dip. Overall performance in 2013/14 was 78% and this fell slightly to 72 % in 2014/15. In 2015/16 performance dipped again to 68%. Indications from recent years are that the numbers of requests are unlikely to reduce, however greater emphasis will be placed on working with Directorate Management Teams to improve the quality and timeliness of management information, enabling earlier remedial action to be taken where requests are nearing the statutory response date.

17. NEXT STEPS 2016/17

17.1. During 2016/17 the centralised Information Governance Team will:

- Complete the user acceptance testing by July 2016 for a new a corporate workflow management system designed to handle FOI/EIR, SAR and complaints (the system is designed to auto-publish disclosures of information under FOI/EIR onto the Council's website in an easily accessible format for the public)
- Continue to work with Directorates to improve the awareness of the requirements of legislation and regulation, ensuring as far as possible that the Council is compliant.
- Continue to improve the Council's Publication Scheme and the Open Data section of the Council's website, enabling more customers to access

online sources of information, thereby preventing the need to revert to FOI/EIR as a means of accessing Council information.

- Work with Children's Services and Health and Care Directorate Management Teams to improve the timeliness of responses to complaints, and to reduce the average time taken to achieve a resolution to complaints.
- Improve learning from complaints and compliments to ensure that a robust mechanism is in place for sharing potential practice development with appropriate managers in Children's Services and Health and Care Services.
- Support Directorate Management Teams to take earlier action to ensure requests for information under the FOI/EIR regimes are responded to within statutory timescales. Regular detailed management reports will be presented to DMTs highlighting requests that are close to deadline dates for responses, enabling remedial action to be taken to avoid drift and the potential for late responses to progress to formal complaints.
- In response to a previous recommendation from the ICO, the Council now has corporate oversight of both the number of SARs received and percentage responded to within the 40 day statutory period. Again, there is room for improvement and management reports will be presented to DMTs to ensure that speedier responses to requests are provided.

Version 4.1- 25th May 2016.