

POLICY & FINANCE COMMITTEE

20 SEPTEMBER 2018

INFORMATION REQUESTS, COMPLAINTS AND RIPA UPDATE

1.0 Purpose of Report

- 1.1 To inform Members of the activity in relation to requests made to the Council during the 2017/18 financial year under the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004.
- 1.2 To inform Members of the complaints made to the Local Government Ombudsman during 2017/18.
- 1.3 To inform Members of the use by the Council of the Regulation of Investigatory Powers Act 2000 (RIPA) during 2017/18.

2.0 Background Information

- 2.1 Formal requests for information can be made to the Council in accordance with the following pieces of legislation, Data Protection Act 1998 (DPA), Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR) and the Re-Use of Public Sector Information Regulations 2015(RPSI). These legislative areas are all regulated by the information Commissioner who has powers to fine organisations if they breach any of the provisions.
- 2.2 The Local Government Ombudsman (LGO) earlier this year published its annual review statistics for the year ending 31 March 2018. The LGO is the final stage for complaints - the person affected must have gone through the Council's complaints process before escalating their complaint to the LGO. In some cases it is very clear to the LGO that the customer has not taken their complaint to the Council and will advise the customer that they must do so before the LGO can assess their complaint. The Council is not always notified of such cases.

3.0 Information Governance Activity

- 3.1 The total number of information requests received during 2017/18 was 1658, representing an increase of 56% over the 1034 received in the previous financial year. Of these, 699 requests were made under FOIA, 888 under EIR and 71 under DPA.
- 3.2 All responses continue to be made within the statutory timescales. FOIA and EIR requests have to be responded to within 20 working days and during the year the average response times were 6.04 days and 12.62 days respectively. Requests made under DPA must be responded to within 40 calendar days and the average response time was 4.84 days.
- 3.3 73 % of requests related to three areas of the Council's activity – growth and regeneration, revenues and environmental health issues:
 - 914 requests were referred to the Growth and Regeneration business unit, the majority of these being property search requests which can be made under EIR.

- 170 requests were referred to revenues and benefits, mainly from a small number of businesses wishing to identify companies and charitable organisations liable for business rates within the district so that they could offer assistance in obtaining reliefs.
- 139 requests were referred to environmental health covering a range of issues from licencing to public health funerals.

3.4 Although requests have been received from 25 different sectors over 80% fall within four categories:

- 849 received from Land and Property Search companies
- 322 received from individual members of the public
- 139 received from businesses
- 110 received from the media

4.0 **Ombudsman**

4.1 The LGO made decisions on 16 complaints and enquiries against the Council in the financial year 2017/18. This compares to 25 in 2016/17. The outcomes were as follows:

Advice given	1
Referred back for local resolution	8
Closed after initial enquiries	7
Total	16

These figures are from the figures which the LGO hold which do not align with the figures the Council hold. This is because the LGO numbers include enquires from people who the LGO signpost back to the Council but never contact us. These are captured in the “advice given” and “referred back for local resolution” figures. There is no way of identifying who these customers are.

4.2 It is pleasing to note that out of the 16 decisions made by the LGO in 2017/18 none were upheld.

4.3 The table below details the type of enquiries logged by the LGO together with those logged by the Council. The received figures do not match the decided figures as the decided figures are based on the decisions made during 2017/18. Some of these decision will relate to enquiries logged in a previous year and likewise the LGO will not have reached a decision during 2017/18 on all of the enquiries logged during the year.

Ombudsman Category	Received by Ombudsman	Received by Council
Benefits and Council Tax	2	2
Corporate/Other Services	3	3
Environmental Services	2	1
Housing	3	0
Planning and Development	10	6
Total	20	12

4.4 The LGO annual review letter is attached to this report as **Appendix 1**. The letter includes a section on “Supporting Local Scrutiny”. Sharing the learning from their investigations and supporting the democratic scrutiny of public services is one of the LGO’s key priorities. There is a dedicated section on their website which contains a host of information to assist elected Members and the Ombudsman encourages elected members to make use of these resources. This can be found at www.lgo.org.uk/scrutiny

5.0 Regulation of Investigatory Powers Act

5.1 The Regulation of Investigatory Powers Act 2000 (RIPA) is the law governing the use of covert surveillance techniques by public authorities. Local authorities are only permitted to carry out covert surveillance for the purposes of preventing or detecting crime, or preventing disorder and only where such action is necessary, proportionate, justified and compatible with human rights. The Council endeavours to keep such surveillance to a minimum.

5.2 Since 1 November 2012 local authorities have been required to obtain judicial approval prior to using covert techniques. Additionally, since this date local authority use of directed surveillance under RIPA has been limited to the investigation of crimes which attract a six month or more custodial sentence, with the exception of offences relating to the underage sale of alcohol and tobacco.

5.3 Under the legislation it is the responsibility of the designated ‘Senior Responsible Officer’ (Director - Safety) to ensure regular reports to Members on the Council’s use of RIPA powers.

5.4 The Council’s usage of RIPA has always been low and it should be noted that there have been **NO** authorisations of covert surveillance by the Council for the last 5 years. The last inspection of the Council’s use of RIPA took place on 20 April 2016. The outcome of that inspection, which was very positive, was reported to the Committee on 1 December 2016. Inspections are undertaken by the Office of Surveillance Commissioner every 3 years and so it is anticipated that the next one will take place in 2019. There are a number of reasons for the Council’s low usage of RIPA, which reflect similar findings with other local authorities, namely:

- The transfer of benefit fraud investigation from local authorities to the DWP;
- The constraints introduced by the change in the legislation now requiring judicial authorisation for surveillance;
- Reduced resources;
- A concentration on deterrence rather than prosecution;
- Adverse reporting in the national media affecting attitudes of both elected Members and officers to covert surveillance; and
- A concentration on using overt as opposed to covert surveillance as a means of investigation.

6.0 Equalities Implications

6.1 As this report is for noting there are no equality implications as a result of the content of this report.

7.0 Finance Comments

7.1 There are no financial implications arising from this report.

8.0 RECOMMENDATION

That the report be noted.

Reasons for Recommendation

To inform Members of activities in relation to information requests, complaints made to the Local Government Ombudsman and the use of RIPA in 2017/18.

Background Papers

Nil

For further information please contact: Karen White regarding RIPA on ext. 5240 and Jill Baker regarding Information Governance and Ombudsman enquiries on ext. 5810.

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