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**FINAL INTERNAL AUDIT REPORT
CHIEF EXECUTIVE'S DEPARTMENT**

FREEDOM OF INFORMATION AND SUBJECT ACCESS REQUESTS 2021-22

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Date of Issue: 28 September 2021

Report No.: CORP/01/2021

INTRODUCTION

1. This report sets out the results of our internal audit of Freedom of Information (FOI) Requests and Subject Access Requests (SAR). The audit was carried out as part of the work specified in the 2021-2022 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee. The controls we expect to see in place are designed to minimise the Council's exposure to a range of risks. Weaknesses in controls that the audit has highlighted will increase the associated risks and should therefore be addressed by management.
2. The audit looked to review the arrangements in place for oversight and control over FOI/SAR activity, as well as the reliability of records, integrity of information and compliance with relevant regulations.
3. The Freedom of Information Act 2000 (FOIA), which came into effect on 1 January 2005, governs and increases rights of access to information held by public authorities (other than personal information which continues to be governed by the Data Protection Act (DPA) 2018). Under the DPA 2018, an individual can submit a SAR for the information which they are entitled to ask for under section 7 of the DPA 2018.
4. All public authorities covered by the FOIA must maintain a Publication Scheme, which is a catalogue of information that an Authority already makes available to the public as a matter of course. A Publication Scheme should state what format the information can be supplied, who can provide access, and whether there will be a fee to provide that information.
5. Public authorities are required to provide information requested in writing by a member of the public and are obliged to process and respond to FOI requests within 20 working days, and SAR within 1 calendar month. All formats and types of information are covered by the Acts which is enforced by the Information Commissioner.
6. The fieldwork for this review was completed remotely during the government measures put in place in response to COVID-19.
7. We would like to thank all staff contacted during this review for their help and co-operation.

AUDIT SCOPE

8. The scope of the audit was outlined in the Terms of Reference issued in April 2021.

9. The controls in place to mitigate the impact of the key risk areas were examined. Controls relating to corporate and departmental risks were also examined where applicable. The audit included a review of relevant documentation, interviews with key officers and testing of related procedures and processes.
10. The following were considered to be the key risks inherent to the FOI and SAR process:
 - Legislative, organisational and Management Requirements: Lack of guidance in place and/ or staff awareness, resulting in a breach of the legislation.
 - Recording, Processing and Responding to Requests: Requests are mislaid and/ or not responded to within statutory timeframes. Inappropriate information is divulged.
 - Management Information: There is no central oversight of FOI and SARs. Poor performance persists with no corrective action taken.

AUDIT OPINION

11. Our overall audit opinion, number and rating of recommendations are as follows.

AUDIT OPINION	
Limited Assurance	(Definitions of the audit assurance level and recommendation ratings can be found in Appendix B)

Number of recommendations by risk rating		
Priority 1	Priority 2	Priority 3
1	2	0

SUMMARY OF FINDINGS

12. Detailed below we have set out examples of controls noted to be in place and working effectively, based on the audit testing conducted. In addition, where we have identified issues, we have also highlighted these below:
- The Council's website lays out the procedure for filing FOIs/SARs with the Council and includes a link to a webform to submit such requests. However:
 - The SAR policy is available on the Council's website, but the version available is dated May 2018, meaning it is likely to be out of date (*see issue 1 in detailed findings*).
 - Whilst information about the process for filing a FOI Request, and how it will be handled, is made available, there is no single FOI policy document available (*see issue 2 in detailed findings*).

- Evidence was provided to confirm that training events for members of the Information Management team on information governance and changes to FOI and data regulations had recently been held. Training is largely on an ad hoc basis, with no set schedule for training or a training plan in place. At the time of audit fieldwork, recent training events included SAR training in April 2021, and GDPR training in February 2021. The Information Manager advised that due to COVID-19, there have been fewer training events than would otherwise have been the case.
- Semi-annual meetings were held for the departmental information coordinators, who have devolved responsibility for fulfilling FOIs/SARs. Our review of meeting minutes for the most recent meeting (at the time of audit fieldwork) in September 2020 confirmed that these included updates on any changes to regulations, as well as feedback on performance.
- The Council uses the model ‘Scheme of Publication’ published by the Information Commissioner’s Office. A copy of the scheme is publicly available on the Council’s website.
- The Council uses an IT system for tracking the progress of FOIs/SARs. The system logs receipt of requests, officer allocations and the dates of responses, but does not contain copies of the correspondence with the requestor. It is possible to log a request as complete on the system without uploading evidence to substantiate this. This has resulted in difficulties in providing an audit trail (*see issue 3 in detailed findings*).
- We tested a sample of ten FOI requests and five SARs received by the Council in the year, and found that:
 - All the requests tested were logged in the system within two days of receipt;
 - 12 of the sample had responses, according to the record in the system, sent to requestor within the statutory 20 working days for FOIs, and one calendar month for SARs. Explanations provided for the three exceptions were that:
 - No evidence of a response was retained due to staff departure;
 - The requestor was unclear on the information requested. Therefore, further clarification was needed; and
 - The request was a Council-wide SAR and took longer to respond to than a typical SAR.
 - All of the cases were logged on the system upon receipt and logged as completed once a final response had been sent. However, we noted that the system did not contain complete copies of correspondence, including many of the final responses. (*see issue 3 in detailed findings*).

- The system includes a number of automated controls. For example, it logs when a request was input into the system, when acknowledgement was sent to the requesting party, when the request was allocated to a department, and when the request was replied to. In addition, the system logs the name of the officer who marked each such task as complete, helping ensure an appropriate audit trail. However, during testing, we noted that copies of the acknowledgements or responses were not retained in either the system or the shared folder, meaning these were only accessible to the member of staff who sent these. (see *issue 3 in detailed findings*).
- Responsibility for sourcing the data needed to respond to a FOI/SAR lies with a departmental information coordinator. The Information Management (IM) team allocate requests to the relevant departmental information coordinator to be processed. Testing of a sample of ten FOI requests and five SARs, confirmed that all requests were allocated to a department and emailed to the information coordinator for that department within a week of receipt.
- The IM team send out weekly reminders to information coordinators who have outstanding requests, reminding them of the statutory deadlines in place.
- The IM team verify that the information supplied by the information coordinator is appropriate and then prepare a final response to the requesting party. However, we identified issues with the final responses being documented. As these responses are not uploaded to the system, other members of the IM team cannot view responses sent by another officer. This has meant that the team were unable to provide evidence of a final response in several cases, (where the officer who sent the response is either on long-term leave or has since left the Council) (see *issue 3 in detailed findings*).
- The Head of Information Management collects statistics on how many SAR and FOI requests are processed within the respective statutory timeframes (i.e. 20 working days for FOIs, one calendar month for SARs) and reports these to the information coordinators at the periodic meetings. We obtained and reviewed the most recent report, dated January 2021, which established that:
 - For the period October-December 2020, 86% of FOI requests were closed within the statutory timeframe, but just 53% of SARs were closed within the statutory timeframe;
 - For FOIs, this is an improvement over the September 2020 report (covering June-August 2020), where just 79% of FOI requests were closed on time, but a decrease from 91% for SARs; and
 - The number of SARs trebled from 11 in June-August 2020, to 32 from October-December 2020. However it is noted that SARs made up a very small portion of the team's work, as during these periods, there were 238 and 287 FOIs respectively.

13. We would also like to bring to management attention the following minor issue (which is not being raised a recommendation):
- Training events were being held on an ad hoc basis, rather than according to a regular/scheduled training plan.

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

14. The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed in Appendix A. Any recommendations to management are prioritised in line with the criteria set within Appendix B.

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APPENDIX A

DETAILED FINDINGS AND ACTION PLAN

No.	Finding	Risk	Recommendation and Priority	Management Response	Agreed Timescale and Responsible Manager
1	<p><u>SAR Policy – Past review date</u></p> <p>During fieldwork, it was found that the SAR policy available on the Council's website was last revised in May 2018. The scheduled review date on the policy document was 20 May 2019 which had not been adhered to.</p>	<p>Where policies are not regularly reviewed for relevance, there is a risk that out-of-date information about related legislation or the Council's internal procedures may remain on the Council's website. There is also a risk of regulatory non-compliance if an out-of-date policy is used internally.</p>	<p>The SAR policy should be annually reviewed and, where appropriate, updated.</p> <p>Priority 2</p>	<p>We are recruiting temporary position to the Information Management team to pick up on duties overlooked due to sickness</p>	<p>November 2021</p> <p>Head of Information Management</p>
2	<p><u>There is no clear FOI Policy</u></p> <p>Fieldwork established that, whilst information about FOIs are available on the Council's website, and there are procedure notes for internal use, there is no single 'FOI policy' available for either internal or external use.</p>	<p>Where the Council's policy on FOI is unclear, there is a risk of regulatory non-compliance, due to officers not following the correct policy internally.</p>	<p>The Council should have a clear FOI policy document, which should be published on its website.</p> <p>Priority 2</p>	<p>The Council has an FOI policy, which is published on the intranet. The page on Bromley.gov.uk will be updated.</p>	<p>October 2021</p> <p>Head of Information Management and Information Management Officer</p>

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	Although the requirements and conditions of FOI requests are largely laid out in legislation, the Council should still have a clear internal policy on the processing of FOI requests.			
3	<p><u>Correspondence not retained centrally</u></p> <p>The Information Management (IM) team are required to send an acknowledgement email upon receipt of an SAR or FOI request, and a final response to the request.</p> <p>All correspondence between the IM team and the requestor is via email.</p> <p>Discussion confirmed that the IM team will send an initial acknowledgement upon receipt, and then a final response when the information has been prepared. However, during fieldwork, we were unable to obtain evidence of some of the correspondence due to staff not being available,</p>	<p>Where evidence of correspondence is not retained centrally, there is a risk that it will become inaccessible should a member of staff go on leave or leave the Council.</p> <p>There is a further risk that the Council will be unable to demonstrate that proper procedure has been followed should a dissatisfied requestor appeal to the Information Commissioner.</p>	<p>All correspondence with requestors should be retained centrally, to ensure that it is available irrespective of staff changes.</p> <p>There are a number of ways that this can be fulfilled, including:</p> <ul style="list-style-type: none"> • Saving emails in a shared drive; • Uploading emails into a document imaging system; • Forwarding of emails to an archiving address and archiving of emails. <p>Priority 1</p>	<p>A new system went live on 2nd August. This case management system houses all information relating to the request</p> <p>In Place Head of Information Management</p>

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	<p>either due to long term leave or having left the Council.</p> <p>As a result, Internal Audit was unable to verify some correspondence (for the sample of ten FOIs and five SARs tested as follows:</p> <ul style="list-style-type: none">• Acknowledgement of request for seven FOIs and two SARs• Draft response for two FOIs• Full response for one FOI.				
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Assurance Level

Assurance Level	Definition
Substantial Assurance	There is a sound system of control in place to achieve the service or system objectives. Risks are being managed effectively and any issues identified are minor in nature.
Reasonable Assurance	There is generally a sound system of control in place but there are weaknesses which put some of the service or system objectives at risk. Management attention is required.
Limited Assurance	There are significant control weaknesses which put the service or system objectives at risk. If unresolved these may result in error, abuse, loss or reputational damage and therefore require urgent management attention.
No Assurance	There are major weaknesses in the control environment. The service or system is exposed to the risk of significant error, abuse, loss or reputational damage. Immediate action must be taken by management to resolve the issues identified.

Recommendation ratings

Risk rating	Definition
Priority 1	A high priority finding which indicates a fundamental weakness or failure in control which could lead to service or system objectives not being achieved. The Council is exposed to significant risk and management should address the recommendation urgently.
Priority 2	A medium priority finding which indicates a weakness in control that could lead to service or system objectives not being achieved. Timely management action is required to address the recommendation and mitigate the risk.
Priority 3	A low priority finding which has identified that the efficiency or effectiveness of the control environment could be improved. Management action is suggested to enhance existing controls.