

**Report to the Finance and Performance Working Group**

17 February 2016

By the Head of Legal and Democratic Services

**INFORMATION REPORT**



**Horsham  
District  
Council**

Not Exempt

**Analysis of requests made under the Freedom of Information Act and Environmental Information Regulations 1 October - 31 December 2015**

**Executive Summary**

This report is to provide Members with an overview of the Freedom of Information function and the number of Freedom of Information (FOI) requests that have been received by Horsham District Council from 1 October to 31 December 2015.

For the period 1 October to 31 December 2015, the Council received 161 requests for information. The number of requests received was 12% higher (141) than the same period in 2014. Of these requests, where the identity of the requestor is known, over half (52.4%) of requests have been received from businesses and the media.

Business process change is continuing to deliver the 20 day response outcome expected by the duty. By reshaping the way responses are processed, the council is now meeting the duty at the standard of the best councils. Between April and July 2015 the Council received 216 requests 83% of which were responded to within 20 working days. From 1 August to the end of September, there were been 124 requests, 98% of which were responded to within 20 working days. And from 1 October to 31 December 99% have been responded to within 20 working days.

This analysis report flows from the same information contained within the quarterly outturn report on *HDC's district plan priorities and finance and performance for quarter 3 2015/16* report elsewhere on this agenda. Indicators PP08 and P09 are reported quarterly in that report.

**Recommendations**

That the Working Group is recommended to:

- i) note the contents of this report and comment as appropriate.
- ii) resolve that the preferred reporting cycle for this analysis report be either quarterly or annually (noting that the high level indicators PP08 and P09 are reported quarterly elsewhere on the agenda)

## **Reasons for Recommendations**

- i) To ensure that Members are kept up to date with any developments in the freedom of information function; and
- ii) to continue to provide Members with the necessary assurance that requests for information can be easily made to the Council and properly responded to; and
- iii) to assist with learning lessons and improving performance following requests for information made to the Council.

## **Background Papers**

- Previous reports to this Working Group and predecessor member bodies within the council.
- The Freedom of Information Act 2000
- Horsham District Council Publication Scheme
- Horsham District Council Privacy Policy

**Wards affected:** All wards.

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## **Background Information**

### **1 Introduction and Background**

1.1 This report summarises the function of Freedom of Information at Horsham District Council from 1 October to 31 December 2015. The Council prepares this report quarterly.

#### **1.2 Summary of the Freedom of Information Act:**

The Act gives anyone the right to ask a public authority for information and if that authority holds it, to have that information released to them or to be told why they cannot have it.

The authority:

- Must reply within 20 working days either providing the information or saying why not, using only the stated exemptions within the Act
- Has a duty to provide advice and assistance to the applicant in making the request
- Cannot charge for providing the information other than photocopying, postage and other such disbursements, unless the time that would be required to produce the information would exceed the appropriate limit as defined within the Act – currently £450.00
- Must offer a requester the right to appeal a decision made by the authority prior to them taking a complaint to the Information Commissioner.
- Must adopt and publish a Publication Scheme as defined by the Information Commissioner.

#### **1.3 Environmental Information Regulations**

The Environmental Information Regulations 2004 (EIRs) give enhanced access to environmental information by giving anyone the right to access environmental information held by public authorities. A request can be made in writing, by telephone or in person.

Environmental Information is defined as any information in written, visual, aural, electronic or any other material form on:

- The state of the elements e.g. air, water, land, landscape, nature sites and biological diversity
- Factors affecting or likely to affect the elements such as substances, noise, emissions etc.
- Measure such as policies, plans, programmes, land planning regimes
- Reports on the implemental of environmental information
- State of human health and safety including contamination of the food chain, conditions of human life, cultural sites, built structures inasmuch as they are or may be affected by the state of the elements or by any of the factors, measure or activities.

In view of the above, a large part of the Council's functions is caught by the Environmental Information Regulations such as development control and enforcement, strategic planning, waste management and environmental health, rather than the Freedom of Information Act.

1.4 The key differences between the EIRs and FOIA are:

- Requests for environmental information do not have to be made in writing
- Information held by the Council includes information held on behalf of another person or organisation
- There are no absolute exceptions - every exception is subject to the public interest test
- There is an express presumption in favour of disclosure
- There is no cost limit on disclosure

## **2 Relevant Council policy**

2.1 The Council has a duty to enable the provision of information to requestors within the parameters set by the Freedom of Information Act. The Council must also protect information collected by the Council in accordance with the Council's Privacy Policy. The statutory background is to be found in the Freedom of Information Act 2000, The Data Protection Act 1998 and the Environmental Information Regulations 2004.

## **3 Details**

### **3.1 Improvement**

The number of requests received by the Council has increased when compared with the same period last year. Between April and September 2014 the Council received 303 requests 78% of which were responded to within 20 working days. Between April and September 2015 the Council received 340 requests, 87% of which were responded to within 20 working days. There has been a progressive improvement in responding to requests as shown below.

- Between April and July 2015 the Council received 216 requests 83% of which were responded to within 20 working days;
- From 1 August to the end of September, there have been 124 requests, 98% of which were responded to within 20 working days.
- From 1 October to the end of December, there have been 161 requests, 99% of which were responded to within 20 working days.

The improvement in response time is due business process change to deliver the outcome expected by the duty. By reshaping the way responses are processed, the council will now meet the duty at the standard of the best councils.

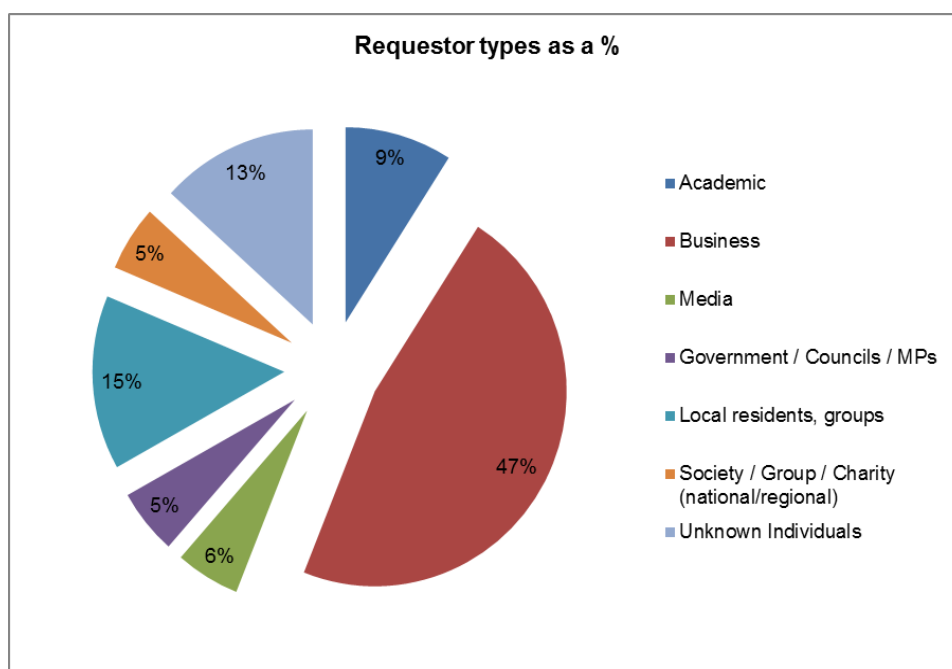
### 3.2 Responding to requests

The Freedom of Information Act requires public authorities to reply to FOI requests within 20 working days. As such, the Council would have a target to respond to 100% of requests on time. However, pragmatically, the target set by the Information Commissioner's Office (ICO) is 85% of requests being responded to in 20 days. The council is meeting the duty at the standard of the best councils.

Also during this period the Information Commissioner's Office has decided to investigate 2 decisions the Council has made in respect of requests for information.

### 3.3 Analysis of Requests between 1 October 2015 and 31 December 2015

Requestors are grouped for analysis purposes. This allows officers to understand the profile of requests and respond by amending the publication scheme according to demand. The Council's Publication Scheme has been updated in line with requirements of the Information Commissioner's Office, namely to adopt the model publication scheme.



### 3.4 Disclosure Log

Responses to requests are being published more consistently on the Council's website via the Disclosure Log. This has allowed some requestors to be referred directly to a published response, which saves officer time.

### **3.5 Online information – *Channel Shift***

The updated publication scheme on the FOI page of the Council's website will proactively assist with handling a number of routine requests. The direct links to business rates information, payments over £500 and to the contracts register have been added to the top of the page. A direct link to West Sussex County Council's page has also been added for those wanting to make enquiries relating to roads, education, social care or libraries. New requesters, not requiring any of the above, are directed towards an online form to make a request.

### **3.6 Internal Reviews**

Requestors are able to ask the Council for an internal review if they are not content with the Council's initial decision on whether or not to release the information they have requested. This is facilitated by way of a well-established internal review process. The Codes of Practice issued under the FOI Act and EIRs state that internal review procedures should "encourage a prompt determination of the complaint". Reviews under the FOIA and the EIR should be completed within 20 working days. However, reviews under the EIRs often relate to complex and difficult issues and up to 40 days may be taken to complete.

Members attention is drawn to the report to the Finance and Performance Working Group of 18 June 2015. That report misstated the number of internal reviews from 1 April 2014 to 30 March 2015 as 12. Subsequent internal re-organisation required a review of business processes which identified that four additional reviews had not been accounted for in the outturn. Members are requested to note that the correct statement of the number of reviews requested for the financial year 2014/15 was 16. From 1 April 2015 to the date of this report, the Council has received 17 further requests for internal reviews of decisions to withhold information.

## **4 Next Steps**

- 4.1 The 2014 report to Members outlined the requirements of the Local Government Transparency Code 2015 on the Council. Progress against those requirements is summarised throughout this report. The Council will continue its business process improvement and report back to Members in 2016.

## **5 Outcome of Consultations**

- 5.1 Feedback from Members on this Working Group or predecessor bodies has been sought quarterly. Responses to feedback have been embedded in business process improvements.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 The Council has a duty to respond to requests for information. There are therefore no alternative course of action.

## **7 Financial Consequences**

- 7.1 The function has continued to meet growing demand within existing resources. There are no financial consequences to report.

## **8 Legal Consequences**

- 8.1 The Council has continued to discharge the functions and duties of the Freedom of Information Act 2000, The Data Protection Act 1998 and the Environmental Information Regulations 2004.

## **9 Staffing Consequences**

- 9.1 Staffing matters are the responsibility of the Head of Paid Service. There are no staffing consequences to report.

## **10 Risk Assessment**

- 10.1 Risk CRR02 on the Council's Corporate Risk Register describes the Council's legal obligation to protect personal data. The Council's approach to Freedom of Information is part of the mitigation of Risk CRR02.

## Appendix 1

### Consequences of the Proposed Action

<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>The Crime and Disorder Act 1998 imposes a duty on the Council to consider in all its decision making the requirements to reduce crime and disorder. Section 17 of the Crime and Disorder Act 1998 requires the Council to do all that it reasonably can to reduce crime and disorder. Information and Data handling is subject to the Council's Privacy Policy.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>The Human Rights Act 1998 requires not only that the Council shall not infringe the convention rights but also (by inference) promotes the convention rights. The Act is intended to change organisational culture and to promote transparency and openness. It is also intended to enhance, thereby, citizens' rights, particularly under Article 6 (The Proper Determination of Civil Rights). Article 8 of the European Convention on Human Rights, provides that individuals have a right to respect for their private life.</p> <ul style="list-style-type: none"><li>• Interference must be justified and be for a particular purpose.</li><li>• Justification could be protection of health, prevention of crime, protection of the rights and freedoms of others.</li><li>• A decision to share information and the reasoning behind it should be recorded.</li></ul>
<p>What is the impact of the proposal on Equality and Diversity?</p>	<p>After consideration of the obligations, the report writer concludes that the noting of this report by members does not impact on equality and diversity.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>The increase in the publication of information through the Council's publication scheme continues to enable those who want to use the data to understand the council's approach to sustainability through its service delivery and supplier relationships.</p>