REPORT

SUBJECT:	**Freedom of Information (FOI) and Data Protection Act (DPA) Breaches & Data Subject Access Request (DSARs) Report**
MEETING:	**AUDIT COMMITTEE**
DATE:	**1st July 2021**

1. PURPOSE:

1.1 The purpose of this report is to both describe the council's responsibilities when responding to information requests, and to present statistics on our performance under the Freedom of Information (FOI) and Data Protection Act (DPA) breaches and Subject Access Requests.

1.2 Members are asked to scrutinize the report and request any clarification of the information within it. We also invite members to discuss how we could improve the layout of the stats or the level of detail in order to make the data more useful and meaningful for them.

2. KEY ISSUES:

2.1 This report explains how the council has performed in the discharge of its legal responsibilities, as well as describes any changes in its administration processes for recording data.

2.2 In June 2021, responsibility for the administration of Freedom of Information and Data Protection relocated from the Digital Programme Office (DPO) into the new Information Security and Technology Team (ISTT). This team will continue to strengthen the link between the digitisation of information and the increased risk of data loss from cyber-crime or human error. The ISTT manages the transition from paper to digital storage and ensures that digital storage is organised and managed so that it can be easily available to the right person, in the right format and at the right time.

2.3 Since 2019, the administration of Data Breaches and FOI has been digitalised to make it easier to manage requests and extract relevant data. This change is constantly reviewed and improved to make sure it adds value and makes administration easier. This report will include performance data over time for comparison purposes. A recent change has been to split all of this data into per Directorate reports so that service area leaders can scrutinise the density of these request and issues. The information in this report is also split into these Directorates but the details have been excluded.

2.4   The statistical data included in this report isn't just for information. It is actively used by the ISTT to target changes in the way we record information to make it easier to extract relevant data on request. It is also used to assess the training needs in the organisation and focus training to the areas of higher risk. This targeted training supplements the 'blanket' electronic training and is far more effective in training in the context of the service areas working day.

3.   FREEDOM OF INFORMATION

3.1   The Freedom of Information Act 2000 allows anyone to request any data and information held by the council, whether stored electronically or on paper. The Act imposes certain timescales and conditions around the format and supply of information. The new Information Governance Officer oversees the management and co-ordination of FOI requests, though the information must be collated and supplied by service areas within the statutory deadlines. Such is the workload of FOI requests, the council are recruiting an Information Governance Coordinator to support the management of this area, along with other Information Security and Technology tasks.

3.2   An internal review is conducted where the requestor is not satisfied that a full response has been given. The review covers internal processes used to uncover the information, as well as deciding whether the statutory regulations have been met. The number of these in the last year is documented below.

3.3   Requests under FOI and Environment Information Request (EIR) are not segregated. Figures include both. The target is for a percentage of FOI's closed within 20 Working Days. The target of 90% closed requests has not been achieved for the financial year 2020/21. This is, in the main part, due to the ongoing Covid-19 response and many service areas working with reduced staffing.

There continues to be an increase in the complexity of FOI's resulting in more time resource being required within the service area to respond to requests.

3.4 The number of requests received by Monmouthshire in recent years is as follows:

Financial Year	Number of requests received
2012-13	780
2013-14	918
2014-15	1002
2015-16	1061
2016-17	1045
2017-18	1005
2018-19	No statistics available
2019-20	931
2020-21	796

3.4.1 **Breakdown of last financial year (April 2020 to March 2021)**

	2020/21	2019/20
Requests received	796	931
Requests closed	657	924
Requests closed on time	394 (50%)	(69%)
Internal Reviews	5	3

3.4.2 Current overview of this financial year (2021/22):

1st April 2021 - 30th May 2021

Requests received	134
Requests closed	104
Requests closed on time	88 (66%)
Internal Reviews	3

3.4.3 This very recent data shows a positive trend in the number of FOIs closed on time, though it is clearly below the target of 90%. The indications are that Service Departments are struggling to return the required information to the FOI administrator within the statutory deadlines. This has been down to the covid emergency with staff shortages coupled with the increasing complexity of the requests themselves resulting in an inability to respond in time, even when reminders are issued. The FOI administrator contacts all requestors when the information is going to be late in order maintain good public relations.

3.4.4 The FOI administrator has attended Departmental Management Team meetings to identify problem areas and increase training and awareness of FOI legislation requirements as necessary. These statistics are also reported to the Information Governance Group where departmental representatives discuss the contacts

3.5 FOI requests are now allocated into the service areas that 'own' the response by the statutory deadlines. This is to help Members identify where the FOI requests are targeted, and where we may store information differently to help people to self-serve.

Service Area	Number of requests (2020/21 Financial year)
Chief Executives	37
Children and Young People	34
Enterprise (Majority are planning)	205
Mon Life	8
Resources	282
Social Care, Health and Safeguarding	200
Other	30

3.6 It should be noted that though the administration of FOI's rests within the ISTT it is the responsibility of the service departments to collate the information required by the FOI. With the increase in complexity of requests coupled with resource pressures in the service areas the time taken to respond has increased. The Information Governance Officer has met with various service area leads to address the need for prompt action.

3.7 Many service areas were impacted by the response to Covid-19 and this was particularly noticeable in FOI return times. The Information Commissioner's Office issued statements allowing Local Authorities to 'relax' response times whilst still urging a need for replies to be sent in a timely manner.

3.8 The Information Governance Officer has introduced new processes for FOI feedback over the past year. All requestors who have outstanding requests are contacted to enquire as to whether they still want the data. Timescales for contact have been set. Although this is labour intensive for the Information Governance Officer, it does provide an update for the requestor. It should be noted that no complaints about late FOI responses have been received in the last year.

3.9 Considerable effort is being made to 'signpost' people to readily available information rather than respond in detail to an FOI request. This is linked to opening up our data on our website in order for people to self-serve.

4.   DATA PROTECTION ACT BREACHES

4.1   The Data Protection Act 2018 is there to ensure we secure our data from theft, loss or mismanagement. From time-to-time data breaches may occur which could have a harmful effect on an individual and these breaches must be managed to ensure they can't re-occur and to minimise any damage that has occurred. The 'more serious' breaches are reported to the Information Commissioner's Office (ICO), and these are included in this report for analysis.

4.2   Tables 1 & 2 below set out the number of breaches split into directorates and type. It is useful to note that the whole council is classed as a single 'data controller', whilst each school is its own 'data controller' so is responsible for its own data protection management.

Table 1 - Number of Data Breaches recorded 1st April 2020 to 31st March 2021

Directorate	Number of Data Breaches
Chief Execs	5
Children & Young People	7
Enterprise	4
Resources	9
Schools	21
Social Care, Health & Safeguarding	14
TOTAL	**60**

Table 2 - Type of data breach:

Cyber Security Issue	0
Email	45 **
Paper Records	6
Laptop/other devices	0
Other*	9
TOTAL	**60**

'Other' breaches include electronic records shared or accessed incorrectly, records not redacted accurately or photographs being shared without consent

*** Emails account for 75% of all breaches in 2020/21. This is an increase from 68% the previous year.*

Table 3 - Number of Data Breaches reported to the ICO:

Corporate	2
Schools	0
TOTAL	**2**

Table 4 - Number of Data Incidents (aka 'near miss' breaches):

Corporate	7
Schools	3
TOTAL	**10**

4.3   From April 2021, we have recorded data breaches incurred by other organisations that containing MCC data. For example,: a member of staff working for Aneurin Bevan University Health Board, sending an email which contains a MCC resident's information to an incorrect recipient. These are recorded as data breaches by ABHB

4.4   A new process has been introduced for Data Protection Impact Assessments (DPIA) to be drawn up when services adopt new systems to ensure we are considering the implications of the data protection principles. These are being compiled into a DPIA register so an overview of all processes and new risks can be accessed efficiently.

4.5   The take up of Mandatory online GDPR training is reported to the Information Governance Group and is to date as follows:

Table 5 - GDPR Mandatory Training (July 2019 to June 2021)
By Directorate:

Chief Execs	60
Children & Young People*	222
Enterprise (inc. Mon Life)	273
Resources	119
Social Care, Health & Safeguarding	241
TOTAL	**915**
Schools**	**857**

*NB   * contains some School Staff*
          *** one Secondary School completed with an External training*
company

5.   DATA SUBJECT ACCESS REQUESTS

5.1   Individuals have the right to request to see any personal information that's held on them by the council. These Data Subject Requests (DSARs) require the council to search for any records they may hold, and make sure anyone else's personal information is redacted. The vast majority of DSARs relate to Social Care, and because these records can go back many years, responding to these requests is quite an undertaking. The number of DSARs therefore may not reflect the resources needed to collate the information.

5.2   For the purposes of this report, the number of DSARs received and responded to has is shown in the table at 5.4. This includes a breakdown of the main request service areas.

5.3   Financial Year 2019/20 - 51 SARs
        Financial Year 2020/21 - 49 SARs

5.4 **Number of Data Subject Access Requests for Financial Year 2020/21:**

Data Subject Access Requests	Number
Children's Services	31
Adult Services	6
Mixed Children's and Adult Services	3
Whole Authority	9
TOTAL	**49**
Number of individual requestors above	*41*
Number of 'on time' replies (28 days)	*57%*
Number of enquiries received (Missing Persons/Proof of Life etc.)	*13*

6.   CONSULTEES:

Information Security and Technology Team
Chief Officer Resources

7. BACKGROUND PAPERS:

FOI requests, DPA breach notifications & DSARs records

AUTHOR: Sian Hayward – Head of Information Security and Technology

CONTACT DETAILS:

Tel: 01633 344309 / 07825 450791
Email: **sianhayward@monmouthshire.gov.uk**