

DECISION-MAKER:	CABINET		
SUBJECT:	FREEDOM OF INFORMATION, DATA PROTECTION & REGULATION OF INVESTIGATORY POWERS ACTS: ANNUAL REVIEW 2023-24		
DATE OF DECISION:	17 th September 2024		
REPORT OF:	Director of Legal and Governance		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	CHRIS THORNTON, Data Protection Officer	Tel: 023 8083 2627
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	E-mail:	Richard.ivory@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
None			
BRIEF SUMMARY			
A report detailing the statistical information for the financial year 2023-24 with regard to information governance. This report details statistical information on requests received under the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR), the UK General Data Protection Regulation (GDPR) and the Council's activity under the Regulation of Investigatory Powers Act 2000 (RIPA).			
RECOMMENDATIONS:			
	(i)	To accept the update of the statistical information for the year 1 st April 2023 – 31 st March 2024 reporting on the Council's performance relating to: <ul style="list-style-type: none"> • FOIA and associated legislation • GDPR • RIPA 2000 	
	(ii)	To agree the updated Corporate Surveillance document (October 2023) attached at appendix 1	
	(iii)	To agree the actions detailed at paragraph 21	
REASONS FOR REPORT RECOMMENDATIONS			
1.	To keep Members informed as to the impact of the legislation to the Council, the type and nature of information requests and resources deployed to respond to them and to detail the form and type of information requests received in 2023-24 to monitor and demonstrate continued performance improvement activity.		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED			
2.	The alternative to bringing this report before members is to not report the yearly analysis. This was rejected because it is considered to be good governance to report such matters to Members, provides an audit trail to demonstrate to the Information Commissioner that the Council has a robust structure in place to comply with the legislation, and to maintain the profile of information law requirements, track the matters		

that have generated public interest over the past year to inform service decisions and resource implication within the organisation.

DETAIL (Including consultation carried out)

3. This report will be published on the Council’s website

FOIA

4. FOIA and EIR gives separate rights to request information and environmental information from public authorities. Responses must be issued within 20 working days.

5. Under the FOIA and associated legislation, anybody may request information from a public authority with functions in England, Wales and/or Northern Ireland. Subject to exemptions, the FOIA confers two statutory rights on applicants:

- (i) The right to be told whether or not the public authority holds that information; and
- (ii) The right to have that information communicated to them

6. There are two types of exemptions that may apply to requests for information – absolute and qualified.

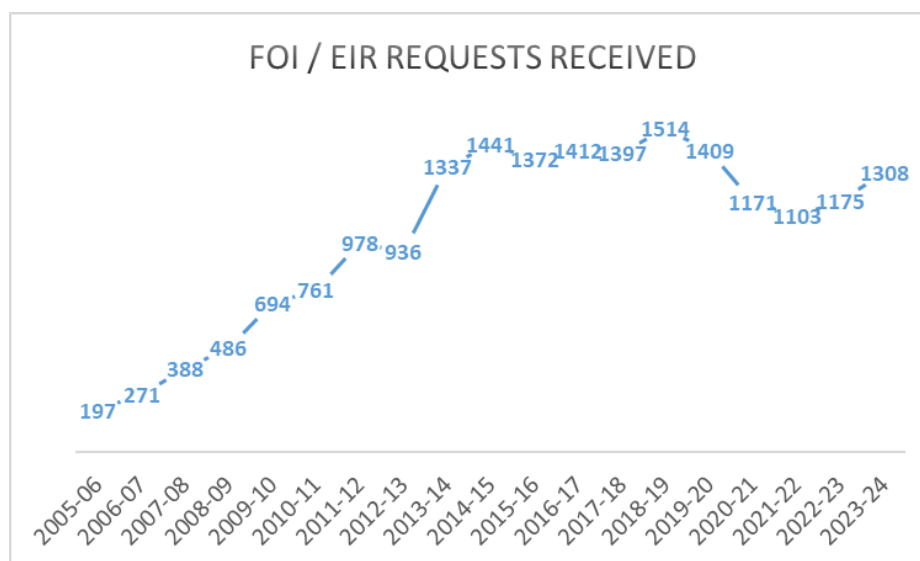
7. Information that falls into a particular exemption category, for example information relating to commercial interests, will have to be disclosed unless it can be successfully argued that the public interest in withholding it is greater than the public interest in releasing it. Such exemptions are known as qualified exemptions.

8. Where information falls within the terms of an absolute exemption, for example, information reasonably accessible by other means or information contained in court records, a public authority may withhold the information without considering any public interest arguments.

9. For 2023-24, the Council received 1308 requests, broken down as follows:

Total Requests	FOI Requests	EIR Requests
1308	1236	72

10. This represents a continued increase on previous years (by 11%), returning to pre-pandemic levels.



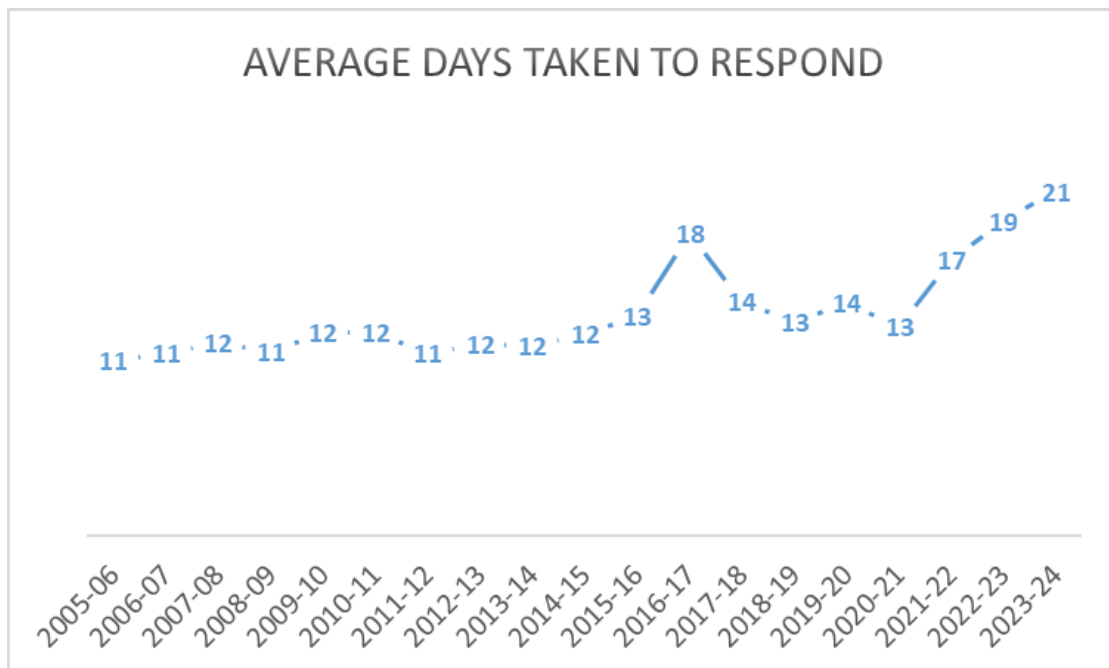
11.	<p>The Directorate breakdown of the requests is as follows:</p> <table border="1" data-bbox="231 309 1433 824"> <thead> <tr> <th data-bbox="231 309 667 398">Directorate</th> <th data-bbox="667 309 794 398">No. Rec'd</th> <th data-bbox="794 309 1018 398">Responded On Time</th> <th data-bbox="1018 309 1257 398">Responded Late</th> <th data-bbox="1257 309 1433 398">Av. Days Taken</th> </tr> </thead> <tbody> <tr> <td data-bbox="231 398 667 450">Children and Learning</td> <td data-bbox="667 398 794 450">198</td> <td data-bbox="794 398 1018 450">75%</td> <td data-bbox="1018 398 1257 450">25%</td> <td data-bbox="1257 398 1433 450">20</td> </tr> <tr> <td data-bbox="231 450 667 501">Community Wellbeing</td> <td data-bbox="667 450 794 501">106</td> <td data-bbox="794 450 1018 501">79%</td> <td data-bbox="1018 450 1257 501">21%</td> <td data-bbox="1257 450 1433 501">22</td> </tr> <tr> <td data-bbox="231 501 667 553">Enabling Services</td> <td data-bbox="667 501 794 553">351</td> <td data-bbox="794 501 1018 553">88%</td> <td data-bbox="1018 501 1257 553">12%</td> <td data-bbox="1257 501 1433 553">20</td> </tr> <tr> <td data-bbox="231 553 667 604">Growth and Prosperity</td> <td data-bbox="667 553 794 604">286</td> <td data-bbox="794 553 1018 604">82%</td> <td data-bbox="1018 553 1257 604">18%</td> <td data-bbox="1257 553 1433 604">28</td> </tr> <tr> <td data-bbox="231 604 667 656">Resident Services</td> <td data-bbox="667 604 794 656">341</td> <td data-bbox="794 604 1018 656">84%</td> <td data-bbox="1018 604 1257 656">16%</td> <td data-bbox="1257 604 1433 656">18</td> </tr> <tr> <td data-bbox="231 656 667 707">Strategy and Performance</td> <td data-bbox="667 656 794 707">14</td> <td data-bbox="794 656 1018 707">93%</td> <td data-bbox="1018 656 1257 707">7%</td> <td data-bbox="1257 656 1433 707">18</td> </tr> <tr> <td data-bbox="231 707 667 759">Not allocated</td> <td data-bbox="667 707 794 759">12</td> <td data-bbox="794 707 1018 759">N/A</td> <td data-bbox="1018 707 1257 759">N/A</td> <td data-bbox="1257 707 1433 759">N/A</td> </tr> <tr> <td data-bbox="231 759 667 824">Grand Total</td> <td data-bbox="667 759 794 824">1308</td> <td data-bbox="794 759 1018 824">83%</td> <td data-bbox="1018 759 1257 824">17%</td> <td data-bbox="1257 759 1433 824">21</td> </tr> </tbody> </table> <p data-bbox="231 880 1433 954">Compliance is calculated from the requests <i>responded to</i> within the year. This may include requests <i>received</i> in the previous year.</p> <p data-bbox="231 958 1433 1070">Requests are not allocated to a directorate when it is not clear what information is sought from the request. Clarification is requested, and if this is not received within 3 months, the request is deemed to be lapsed.</p>	Directorate	No. Rec'd	Responded On Time	Responded Late	Av. Days Taken	Children and Learning	198	75%	25%	20	Community Wellbeing	106	79%	21%	22	Enabling Services	351	88%	12%	20	Growth and Prosperity	286	82%	18%	28	Resident Services	341	84%	16%	18	Strategy and Performance	14	93%	7%	18	Not allocated	12	N/A	N/A	N/A	Grand Total	1308	83%	17%	21
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12.	<p>Under the FOIA, a public authority may refuse requests on the basis of:</p> <ul data-bbox="295 1122 997 1234" style="list-style-type: none"> • Cost • If the request is a repeat of a previous request • If the request is deemed to be vexatious <p data-bbox="231 1272 1173 1305">A breakdown of the requests refused in 2023-24 is detailed below:</p> <table border="1" data-bbox="231 1346 1444 1512"> <thead> <tr> <th data-bbox="231 1346 837 1397">Reason for Refusal</th> <th data-bbox="837 1346 1444 1397">Count</th> </tr> </thead> <tbody> <tr> <td data-bbox="231 1397 837 1435">Cost</td> <td data-bbox="837 1397 1444 1435">76</td> </tr> <tr> <td data-bbox="231 1435 837 1473">Repeated</td> <td data-bbox="837 1435 1444 1473">7</td> </tr> <tr> <td data-bbox="231 1473 837 1512">Vexatious</td> <td data-bbox="837 1473 1444 1512">159</td> </tr> </tbody> </table>	Reason for Refusal	Count	Cost	76	Repeated	7	Vexatious	159																																					
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13.	<p>Under FOIA, where the cost of responding to the request will exceed the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (which is currently set at £450 for local authorities), the Council may refuse to comply with it.</p> <p data-bbox="231 1697 1433 1776">As detailed above, the Council issued 76 Refusal Notices on fees grounds, which represents a slight increase, with 64 being issued last year.</p>																																													
14.	<p>When applying the fees exemption, the service area looks at the amount of time it would take to locate the information sought. If the fee limit is exceeded, it is usually because individual records or files have to be searched (i.e. the information requested doesn't form part of a reportable field).</p> <p data-bbox="231 1966 1433 2031">The service area would be asked to do a sample search, which would give the Council an estimate / average time, which is then used to calculate the total time.</p>																																													

	<p>E.g. if searching one file would take 5 minutes on average, searching 250 files would take 1250 minutes, which equates to 20.8 hours (and over the 18 hour fee limit). Each “item” requested needs to be looked at separately, however, which is why the Council might issue a partial response (some of the information can be disclosed within 18 hours, and some cannot).</p>																																								
15.	<p>In terms of vexatious requests, the Council has been more proactive at identifying requests that are vexatious in nature (where the public interest in responding does not outweigh the burden on the Council in responding).</p> <p>As such, there has been an increase in the number of vexatious requests refused, rising from 64 to 159.</p>																																								
16.	<p>During the year, 83% of all monitored FOI and EIR requests were responded to with within the statutory deadline of 20 working days. This is a slight increase on the previous year, and compliance has been relatively stable for the past few years.</p> <p>The Council’s target rate for responses is 90%.</p> <div data-bbox="284 817 1407 1489" data-label="Figure"> <table border="1"> <caption>% FOI / EIR ANSWERED WITHIN 20 WORKING DAYS</caption> <thead> <tr> <th>Year</th> <th>Percentage</th> </tr> </thead> <tbody> <tr><td>2005-06</td><td>97</td></tr> <tr><td>2006-07</td><td>96</td></tr> <tr><td>2007-08</td><td>98</td></tr> <tr><td>2008-09</td><td>95</td></tr> <tr><td>2009-10</td><td>90</td></tr> <tr><td>2010-11</td><td>92</td></tr> <tr><td>2011-12</td><td>96</td></tr> <tr><td>2012-13</td><td>97</td></tr> <tr><td>2013-14</td><td>98</td></tr> <tr><td>2014-15</td><td>96</td></tr> <tr><td>2015-16</td><td>89</td></tr> <tr><td>2016-17</td><td>71</td></tr> <tr><td>2017-18</td><td>81</td></tr> <tr><td>2018-19</td><td>86</td></tr> <tr><td>2019-20</td><td>83</td></tr> <tr><td>2020-21</td><td>90</td></tr> <tr><td>2021-22</td><td>84</td></tr> <tr><td>2022-23</td><td>81</td></tr> <tr><td>2023-24</td><td>83</td></tr> </tbody> </table> </div>	Year	Percentage	2005-06	97	2006-07	96	2007-08	98	2008-09	95	2009-10	90	2010-11	92	2011-12	96	2012-13	97	2013-14	98	2014-15	96	2015-16	89	2016-17	71	2017-18	81	2018-19	86	2019-20	83	2020-21	90	2021-22	84	2022-23	81	2023-24	83
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17. Reasons why a request might not be answered within the statutory timeframe are as follows:

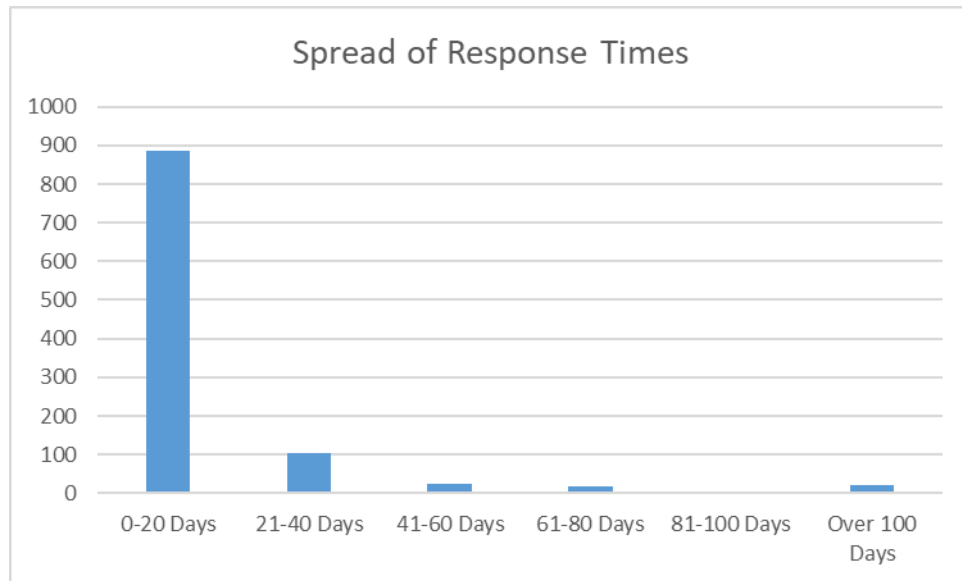
- Requests not being referred to the Corporate Legal team when received by the service area
- Service areas experiencing high workloads for other statutory services, that have a higher priority.
- Requests being initially allocated to the incorrect service area, and this does not become apparent until near the end of the deadline.
- Human / administrative errors.
- The complexity of the request – for example, if there are a large number of components to the response that need to be compiled to respond in full, but a costs limits/staff time exemption can't be applied, more than one exemption needs to be applied, or a large amount of redaction is required (this can't be considered in the costs limits).
- The request contains inaccuracies - for example, if a response is initially sent out on time but is later identified to contain errors, a revised response should be sent and it is likely that such instances will take us past the deadlines.
- Staff absence, particularly if the service area holding the data is a small team, or the request needs approval from a particular individual
- Representations are sought from third parties regarding the request (e.g. those that might have commercial interests in the data being released).

18. The average days taken to respond has increased to 21 days, which represents the highest average since the FOIA came into force, and the first time that the average has exceeded the statutory limit.



19.

However, the vast majority of requests were responded to within the 20-working day period:



20.

Reasons for delays in the requests that exceeded 100 days included:

- Requests generally becoming more complex, involving more service areas. This has resulted in a more complicated co-ordination process
- Service areas failing to respond or engaging late into / within the statutory timeframe.
- Late notification from service areas when there are concerns over the disclosure of information, as there is often a need to convene and conduct public interest test panels to consider exemptions in these cases.
- Structure changes leading to changes in Information Asset Owners and Administrators, who are contacted to approve or chase requests.
- Requests being sent to the wrong service area, and the time taken to identify the correct service area
- Workloads and staffing issues within the service areas

For the other requests that went overdue, the general reasons were resourced-based, with service areas prioritising core service provision.

21.

In order to reduce the number of late FOI requests, and the time taken to respond to requests, the Council recommends the following actions:

- To ensure all staff undertake their mandatory IG training. It is anticipated that the new learning and development system will address this, due to its improved reminder and monitoring functions.
- A comms campaign around the FOI process, ensuring that staff are aware of their role in the process, and understand the need to identify requests early, and collate information as soon as possible
- Guidance given to staff involved in the co-ordination of requests, to ensure that requests are sent to the correct service area
- Establishing a corporate FOI process / timeframe that aims for responses to be disclosed within 16 working days, rather than 20

22.	<p>The breakdown of the request outcomes is as follows:</p> <table border="1" data-bbox="245 282 1460 465"> <thead> <tr> <th data-bbox="245 282 852 331">Outcome</th> <th data-bbox="852 282 1460 331">No. of Requests Closed in Period</th> </tr> </thead> <tbody> <tr> <td data-bbox="245 331 852 376">Fully Answered</td> <td data-bbox="852 331 1460 376">891</td> </tr> <tr> <td data-bbox="245 376 852 421">Refused or Part Refused</td> <td data-bbox="852 376 1460 421">200</td> </tr> <tr> <td data-bbox="245 421 852 465">Lapsed or Withdrawn</td> <td data-bbox="852 421 1460 465">108</td> </tr> </tbody> </table> <p>Fully answered requests include those where information is not held, or an exemption has been applied. This would still be classed as being fully answered.</p> <p>Refused or part-refused requests are where the request has been refused in its entirety, or only certain elements have been refused (e.g. on cost grounds). Other reasons for refusal will be because the request is vexatious or repetitive in nature.</p> <p>Lapsed or withdrawn requests are where the requester has actively withdrawn their request, or has not come back with clarification when asked within 3 months.</p>	Outcome	No. of Requests Closed in Period	Fully Answered	891	Refused or Part Refused	200	Lapsed or Withdrawn	108
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23.	<p>For requests made in 2023-24, 33 individuals requested internal reviews regarding decisions made to withhold, partially withhold information requested, or where they were generally unhappy with how their request was handled. This is an increase on the 13 reviews requested last year, which is as a result of the Council's stricter approach to refusing requests it deemed to be vexatious.</p>								
24.	<p>The themes of the internal reviews were as follows:</p> <ul style="list-style-type: none"> • The requester was unhappy that their request has been deemed to be vexatious • The requester was unhappy with the request being refused on the grounds of cost (i.e. they were not satisfied with the Council's estimate) • The requester was unhappy with the Council's application of an exemption to withhold information (e.g. commercial interests). • The requester was not satisfied that all information within scope of their request had been provided. 								
25.	<p>This year, 5 complaints were made to the ICO; 4 related to requests being late, and one related to the Council's refusal of a request as vexatious. In all cases, responses were issued, and no further action was taken by the ICO.</p>								

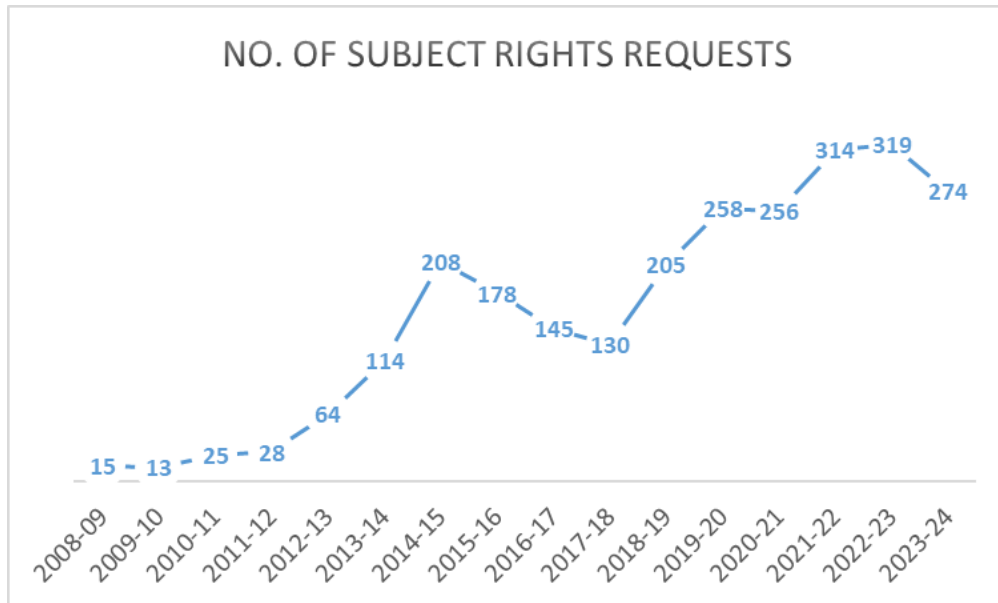
26.	<p>As with all years, types of requests have been varied and covered every service area of the Council, including budget, HR, council tax and business rates data, schools, highways maintenance, and social services.</p> <p>The top ten request subjects ranked in order of popularity are as follows:</p> <table border="1" data-bbox="231 398 1086 974"> <thead> <tr> <th data-bbox="231 398 954 454">Service Area</th> <th data-bbox="954 398 1086 454">No.</th> </tr> </thead> <tbody> <tr> <td data-bbox="231 454 954 510">Housing</td> <td data-bbox="954 454 1086 510">90</td> </tr> <tr> <td data-bbox="231 510 954 566">HR</td> <td data-bbox="954 510 1086 566">72</td> </tr> <tr> <td data-bbox="231 566 954 622">Highways</td> <td data-bbox="954 566 1086 622">61</td> </tr> <tr> <td data-bbox="231 622 954 678">Schools</td> <td data-bbox="954 622 1086 678">58</td> </tr> <tr> <td data-bbox="231 678 954 734">Procurement</td> <td data-bbox="954 678 1086 734">54</td> </tr> <tr> <td data-bbox="231 734 954 790">Children and Families</td> <td data-bbox="954 734 1086 790">50</td> </tr> <tr> <td data-bbox="231 790 954 846">Parking</td> <td data-bbox="954 790 1086 846">36</td> </tr> <tr> <td data-bbox="231 846 954 902">Adult Social Care</td> <td data-bbox="954 846 1086 902">35</td> </tr> <tr> <td data-bbox="231 902 954 958">Planning</td> <td data-bbox="954 902 1086 958">35</td> </tr> <tr> <td data-bbox="231 958 954 974">Information communication technology</td> <td data-bbox="954 958 1086 974">34</td> </tr> </tbody> </table>	Service Area	No.	Housing	90	HR	72	Highways	61	Schools	58	Procurement	54	Children and Families	50	Parking	36	Adult Social Care	35	Planning	35	Information communication technology	34
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27.	<p>The breakdown of requester type is as follows:</p> <table border="1" data-bbox="245 1070 1460 1301"> <thead> <tr> <th data-bbox="245 1070 852 1126">Requester Category</th> <th data-bbox="852 1070 1460 1126">% of Requests</th> </tr> </thead> <tbody> <tr> <td data-bbox="245 1126 852 1171">Private Citizens</td> <td data-bbox="852 1126 1460 1171">61%</td> </tr> <tr> <td data-bbox="245 1171 852 1216">Companies / Businesses</td> <td data-bbox="852 1171 1460 1216">15%</td> </tr> <tr> <td data-bbox="245 1216 852 1261">Media</td> <td data-bbox="852 1216 1460 1261">12%</td> </tr> <tr> <td data-bbox="245 1261 852 1301">Remainder</td> <td data-bbox="852 1261 1460 1301">12%</td> </tr> </tbody> </table> <p>The remaining requests came from a combination of charities, students, researchers, lobby groups, MPs / City Council Members and other Councils etc.</p>	Requester Category	% of Requests	Private Citizens	61%	Companies / Businesses	15%	Media	12%	Remainder	12%												
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28.	<p>Previously, Members requested information as to how much time and resources each Service spends on dealing with requests. Research from Parliamentary post-legislative scrutiny of the Act indicates “the best-performing local authorities took between 1 and 6 hours for each request”. We can estimate that our time spend on requests is comparable to this and using the £25 per hour rate that the Act allows us to charge for staff time when refusing requests, we can estimate that each request costs the Council between £25 and £150 to respond on average.</p>																						
29.	<p>As Corporate Legal accurately time-record, we are able to detail how much time it takes to log, monitor, and give advice on requests. For 2023-24, the average time taken per request was 1.3 hours. Most requests (around 94%) take around half an hour to action within the Corporate Legal Team but, where detailed exemptions and redactions are needed, this can increase time taken on a single request for very complex cases.</p>																						

30.	<p>For example, the Corporate Legal time spent just over 39 hours on one single request in 2023-24. The average therefore predominantly represents the time taken for detailed application of legal tests to requests where the Council seeks to withhold certain information from release. These are activities cannot be included when determining whether to refuse a request on the grounds on time / costs.</p> <p>The total amount of time the Corporate Legal team spent on processing and providing advice on FOI requests for 2023-24 was 1851 hours, which equates to a cost of £89,399.</p>																											
31.	<p>In providing advice and guidance on all information governance matters for 2023-24 (e.g. processing information requests, investigating breaches, conducting Data Protection Impact Assessments etc.), the Corporate Legal team spent 5051 hours, equating to a cost of £264,344. This includes:</p> <table border="1" data-bbox="258 705 1520 1137"> <thead> <tr> <th data-bbox="258 705 1117 757">Information Governance Work</th> <th data-bbox="1117 705 1289 757">Hours</th> <th data-bbox="1289 705 1520 757">Cost</th> </tr> </thead> <tbody> <tr> <td data-bbox="258 757 1117 801">FOI Requests</td> <td data-bbox="1117 757 1289 801">1851</td> <td data-bbox="1289 757 1520 801">£89,399</td> </tr> <tr> <td data-bbox="258 801 1117 846">SAR Requests</td> <td data-bbox="1117 801 1289 846">1153</td> <td data-bbox="1289 801 1520 846">£52,118</td> </tr> <tr> <td data-bbox="258 846 1117 891">Providing General Data Protection Advice</td> <td data-bbox="1117 846 1289 891">760</td> <td data-bbox="1289 846 1520 891">£47,707</td> </tr> <tr> <td data-bbox="258 891 1117 936">Third Party, CCTV, and Re-Use Requests</td> <td data-bbox="1117 891 1289 936">531</td> <td data-bbox="1289 891 1520 936">£29,616</td> </tr> <tr> <td data-bbox="258 936 1117 981">Investigating Data Breaches, Complaints, or Concerns</td> <td data-bbox="1117 936 1289 981">389</td> <td data-bbox="1289 936 1520 981">£21,924</td> </tr> <tr> <td data-bbox="258 981 1117 1025">Conducting Data Protection Impact Assessments</td> <td data-bbox="1117 981 1289 1025">166</td> <td data-bbox="1289 981 1520 1025">£10,387</td> </tr> <tr> <td data-bbox="258 1025 1117 1070">Drafting and Reviewing Data Sharing Agreements</td> <td data-bbox="1117 1025 1289 1070">79</td> <td data-bbox="1289 1025 1520 1070">£4,864</td> </tr> <tr> <td data-bbox="258 1070 1117 1137">RIPA advice</td> <td data-bbox="1117 1070 1289 1137">73</td> <td data-bbox="1289 1070 1520 1137">£5,111</td> </tr> </tbody> </table>	Information Governance Work	Hours	Cost	FOI Requests	1851	£89,399	SAR Requests	1153	£52,118	Providing General Data Protection Advice	760	£47,707	Third Party, CCTV, and Re-Use Requests	531	£29,616	Investigating Data Breaches, Complaints, or Concerns	389	£21,924	Conducting Data Protection Impact Assessments	166	£10,387	Drafting and Reviewing Data Sharing Agreements	79	£4,864	RIPA advice	73	£5,111
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32.	<p>It should be stressed that these figures do not include the time taken for the Service Centre or the service areas' involvement in these matters, and the Council does not have a mechanism for capturing that resource cost (which comprises the bulk of any cost to the Council).</p>																											
33.	<p>In the Corporate Legal team there are now 3 FTE member of staff dedicated to providing advice and monitoring compliance with information law. Other members of Legal Services, the Director of Legal and Governance, Head of Legal Partnerships and apprentices support this function when their capacity allows.</p>																											
GENERAL DATA PROTECTION REGULATION																												
34.	<p>The GDPR gives individuals the right to know what information is held about them, along with other rights, and provides a framework to ensure that personal information is handled properly.</p>																											
35.	<p>Under the GDPR, an individual is entitled to access personal data held by an organisation, of which that individual is the data subject. Such requests for information are known as subject access requests. Other requests available under the GDPR are:</p> <ul style="list-style-type: none"> • Rectification • Erasure • Restriction • Object • Portability <p>The Council has to respond to such requests within one calendar month.</p>																											

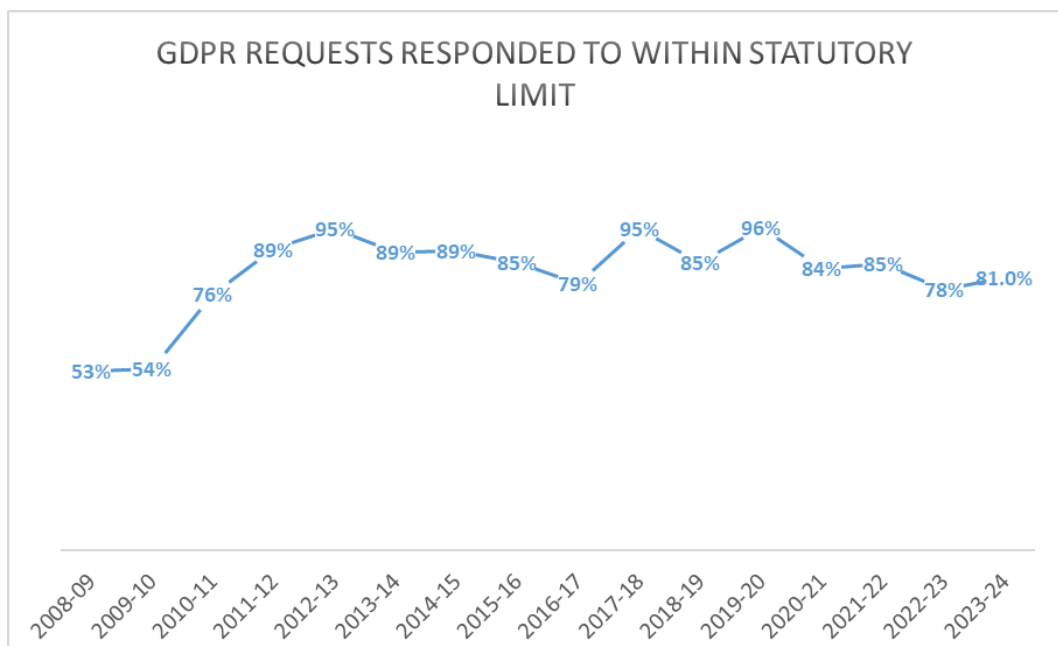
36. For the year 2023-24, the Council received 274 rights requests, broken down as follows:

Request Type	No. Received
Subject Access	259
Erasure	8
Rectification	4
Objection	3

37. This represents a decrease on last year, and is the second time the Council has seen a decrease in such requests since the introduction of the GDPR in 2018.



38. 81% of the requests were responded to within the statutory timescales compared with 78% last year. Again, the Council's target is 90% compliance.



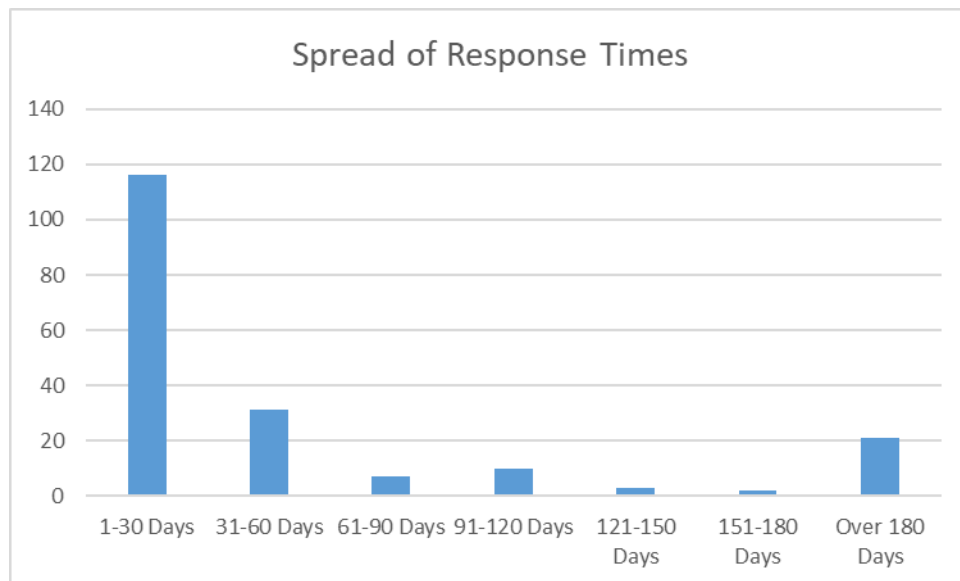
39. The Directorate breakdown is as follows:

	No. Rec'd	Responded on time	Responded Late	Av. Days Taken
Children and Learning	161	64%	36%	91
Community Wellbeing	15	100%	0%	33
Enabling Services	40	97%	3%	34
Growth and Prosperity	9	100%	0%	23
Resident Services	49	97%	3%	35
Strategy and Performance	0	N/A	N/A	N/A
Grand Total	274	81%	19%	63

Compliance is calculated from the requests *responded to* within the year. This may include requests *received* in the previous year.

Requests are not allocated to a directorate when it is not clear what information is sought from the request. Clarification is requested, and if this is not received within 3 months, the request is deemed to be lapsed.

40. The majority of requests (61%) were responded to within the one-month period.



It should be noted with SARs that the GDPR enables the Council to extend the deadline up to 90 days, if the request is particularly complex. As such, those that took up to 90 days may not necessarily be "late".

41. The delays generally occurred within the Children and Learning, which is to be expected as they receive the largest volume of requests. For requests that took over 100 days to respond to, the main themes were:

- The volume and complexity of requests for social care information
- Delays in receiving social worker's advice on redactions and approval of proposed disclosure document.

	<ul style="list-style-type: none"> • Children and Learning clearing a large backlog of requests. This is still being done on a first-come-first-served basis and whilst the backlog is being cleared it has led to a large number of “late” requests being responded to, attributing to the figures above (which only included requests that were responded to). • Requests involving a large volume of historic records. In most cases, the Council were able to give a partial disclosure on or just after the statutory deadline and then would provide a monthly disclosure bundle until the SAR was complete. 										
42.	<p>For requests received during 2023-24, 5 individuals requested internal reviews regarding decisions made to withhold, partially withhold information requested, or where they were generally unhappy with how their request was handled.</p> <p>The themes of reviews are as follows:</p> <ul style="list-style-type: none"> • The requester was not satisfied that the Council had disclosed all information it held on them • The requester was not happy with the delays in responding, and / or the application of the 2-month extension • The requester did not agree with the Council’s decision that they did not have the authority to act on behalf of the data subject • The requester was not happy with the redactions applied to the documents provided 										
43.	<p>There were 4 occasions where the ICO contacted the Council in light of concerns they had about how a request was handled. Two complaints were in respect of late requests, one complaint was regarding the Council’s application of the time extension, and the remaining complaint what that the Council has not disclosed all information held.</p> <p>All complaints were addressed with no further action being taken by the Commissioner.</p>										
44.	<p>Sometimes, there is a requirement to disclose personal data which might otherwise be in breach of the GDPR. Where an exemption from the non-disclosure provisions applies, such disclosure is not in breach of the GDPR.</p> <p>Examples of exemptions include crime and taxation and disclosures required by law or made in connection with legal proceedings. Such requests are typically made to the Council by regulatory authorities such as the police, the Department of Work and Pensions and so on as part of their investigations.</p>										
45.	<p>For the year 2023-24 the Council received 292 requests for data from such third-party organisations compared to 304 in the previous year.</p> <p>The top three requester types are as follows:</p> <table border="1"> <thead> <tr> <th>Type</th> <th>Requests</th> </tr> </thead> <tbody> <tr> <td>Police</td> <td>121</td> </tr> <tr> <td>Local Authority</td> <td>85</td> </tr> <tr> <td>Government Agency</td> <td>68</td> </tr> <tr> <td>Other</td> <td>18</td> </tr> </tbody> </table>	Type	Requests	Police	121	Local Authority	85	Government Agency	68	Other	18
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46.	<p>In addition to these requests, the CCTV control room (City Watch) and Licensing Team received 1253 and 30 third party requests respectively (all of the Licensing requests were for footage from the vehicle Taxi Cameras). These requests are regulated by information sharing agreements, which removes the requirement to have each one authorised by Corporate Legal.</p>										

	DATA SECURITY INCIDENTS
47.	<p>During 2023-24, 217 data security incidents were reported to the Corporate Legal team, which represents a slight increase from last year's 196 reported incidents. However, we strongly encourage full reporting of all breaches, however minor, so this figure on its own does not indicate anything is systemically wrong with how the Council handles its data.</p> <p>80% of these 217 were determined to be actual data breaches upon investigation, with the most common cause (56% of incidents) being data sent electronically to incorrect recipients.</p> <p>It should be noted that a "breach" could include an internal disclosure of information to the wrong member of staff, but as this information has not been shared externally, the detriment to the data subject would be deemed to be minimal.</p>
48.	<p>Crucially, the Council records the "severity" of the incidents reported, determined by a number of factors, including the nature of the information involved, the volume of data, and the possible harm the breach might cause to individuals involved. Any incident receiving a severity rating over 1 was considered to require a full investigation and remediation report.</p> <p>It is important to note that for 2023-24, the average severity of incidents determined to be actual breaches was 0.2.</p>
49.	Importantly, none of the data breaches reported were considered sufficiently serious to be reported to the Information Commissioner's Office.
	NHS TOOLKIT
50.	In order to share information with our health partners, the Council has to provide annual assurance as to the standard of its information governance compliance. In the absence of any service information governance lead, the Corporate Legal Team again assumed short-term responsibility for collation of the Toolkit evidence. The Council was self-assessed at being 100% compliant with the mandatory evidence requirements.
51.	This year, the Council's evidence was reviewed by the NHS, and it was deemed that the Council provided full data security assurance.
	RIPA
52.	Under RIPA, the Council as a public authority is permitted to carry out directed surveillance, the use of covert human intelligence sources and to obtain communications data if it is both necessary for the purpose of preventing or detecting crime and/or disorder and the proposed form and manner of the activity is proportionate to the alleged offence.
53.	There were no authorisations made under RIPA in 2023-24.
54.	Examples of activity authorised in previous years include covert surveillance of a victim's home to detect acts of criminality, directed surveillance of individuals who were involved in fraudulent activities and a Covert Human Intelligence Source ('CHIS') was used to form an online relationship with a suspect to make a test purchase of suspected counterfeit goods.
55.	The Council is required to formally appoint a 'Senior Responsible Officer' for RIPA. The Director of Legal and Governance is the officer who undertakes this role. The Senior Responsible Officer has responsibility for maintaining the central record of authorisations; the integrity of the RIPA process within their authority; compliance with the Act and Codes of Practice; oversight of the reporting errors to the Surveillance

	Commissioner; engagement with inspectors from the Investigatory Powers Commissioner and implementation of any subsequent action plan.																				
56.	Training for Council officers involved in RIPA processes is regularly undertaken and is delivered by the Corporate Legal Team. Our documentation, procedures and training are also used as ‘best practice’ by a number of other local authorities and we regularly provide training for partner authorities on request. This year we also delivered four training sessions to officers at Eastleigh Borough Council and one session to officers at Fareham Borough Council.																				
57.	<p>The Investigatory Powers Commissioner’s Office (formerly the Office of Surveillance Commissioners) carried out its most recent inspection of the Council’s management of covert activities in December 2022. In his report of December 2022, The Rt. Hon. Sir Brian Leveson, the Investigatory Powers Commissioner, noted:</p> <p>“In conclusion, it is clear that SCC remains very well placed as regards its levels of compliance with RIPA and the Investigatory Powers Act. It is positive to see the Policy and training kept on at least an annual refresher basis, and in Mrs Horspool and Mr Ivory, you reap the benefits from their longevity in these particular roles”</p>																				
58.	The Council’s reviewed and updated Corporate Surveillance Guidance for 2024 is attached at appendix 1																				
	DATA PROTECTION IMPACT ASSESSMENTS																				
59.	<p>Under Council policy, a Data Protection Impact Assessment (or DPIA) must be carried out for new projects.</p> <p>Carrying out a DPIA enables the Council to identify and address any privacy risks at an early stage, ensure a “privacy by design approach, and adhere to the accountability principle of the GDPR.</p>																				
60.	<p>In 2023-24, the Council conducted 61 DPIAs, which is a decrease on the previous year. This represents downward trend over the past few years, which has seen the Council reduce the number of projects and procurement activities undertaken, and there is a finite number of retrospective DPIAs the Council deemed necessary to carry out as part of its work around GDPR implementation.</p> <div data-bbox="338 1400 1369 2011" data-label="Figure"> <table border="1"> <caption>DPIAS UNDERTAKEN</caption> <thead> <tr> <th>Financial Year</th> <th>Number of DPIAs Undertaken</th> </tr> </thead> <tbody> <tr> <td>2015-16</td> <td>15</td> </tr> <tr> <td>2016-17</td> <td>26</td> </tr> <tr> <td>2017-18</td> <td>48</td> </tr> <tr> <td>2018-19</td> <td>139</td> </tr> <tr> <td>2019-20</td> <td>169</td> </tr> <tr> <td>2020-21</td> <td>125</td> </tr> <tr> <td>2021-22</td> <td>128</td> </tr> <tr> <td>2022-23</td> <td>103</td> </tr> <tr> <td>2023-24</td> <td>61</td> </tr> </tbody> </table> </div>	Financial Year	Number of DPIAs Undertaken	2015-16	15	2016-17	26	2017-18	48	2018-19	139	2019-20	169	2020-21	125	2021-22	128	2022-23	103	2023-24	61
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61.	The DPIA process is still embedded within project management and procurement. This gives Corporate Legal valuable oversight with regard to any privacy risks associated with new endeavours, and ensuring a “privacy by design” approach
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
62.	None directly related to this report. The administration of information law within the authority is managed within budget and corporate overheads, but ensuring that the Council performs to an acceptable information governance standard and complies with the new statutory standards imposed by the GDPR and DPA18 places increased pressure on finite and already stretched resources.
<u>Property/Other</u>	
63.	None directly related to the report.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
64.	The statutory obligations relating to information law are detailed in the body of this report.
<u>Other Legal Implications:</u>	
65.	None directly related to this report.
RISK MANAGEMENT IMPLICATIONS	
66.	The potential impact of the decision in terms of finance, service delivery and reputation is considered to be low. Although the report does highlight potential future pressures on service delivery with the advent of the GDPR, the decision of members in this report is to note the performance of the Council in terms of information governance for 2023-24.
POLICY FRAMEWORK IMPLICATIONS	
67.	The information contained in this report is consistent with and not contrary to the Council’s policy framework.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	none
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Corporate Surveillance Guidance October 2023
Documents In Members’ Rooms None	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No

Data Protection Impact Assessment		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		No
Other Background Documents None		
Other Background documents available for inspection at:		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
1.	None	