

## **TELFORD & WREKIN COUNCIL**

**AUDIT COMMITTEE 27 MAY 2021**

**INFORMATION GOVERNANCE & CALDICOTT GUARDIAN ANNUAL REPORT 2020/2021**

**JOINT REPORT OF THE AUDIT & GOVERNANCE LEAD MANAGER AND ADULT SOCIAL CARE DIRECTOR**

### **1 PURPOSE**

- 1.1 To present the 2020/2021 Information Governance (IG) & Caldicott Guardian Annual Report to the members of the Audit Committee.

### **2 RECOMMENDATIONS**

- 2.1 That members of the Audit Committee note the Information Governance & Caldicott Guardian Annual Report for 2020/2021
- 2.2 That members of the Audit Committee agree the IG Work Programme for 2021/22

### **3 SUMMARY**

- 3.1 The terms of reference of the Audit Committee include:
- *The Committee has the responsibility on behalf of the Council for the overseeing of the Council's audit, governance (including risk management) and financial processes*
  - *To be able to call senior officers and appropriate members to account for relevant issues within the remit of the Committee – governance (including information governance).*
  - *Consider the effectiveness of the Council's governance processes including The Council's information security framework*

### **4 PREVIOUS MINUTES**

Audit Committee 30<sup>th</sup> May 2019 – Annual Internal Audit, IG and Caldicott Guardian Annual Report 2018/19

Audit Committee 14<sup>th</sup> July 2020 - Annual Internal Audit, IG and Caldicott Guardian Annual Report 2019/20

### **5 2020/2021 INFORMATION GOVERNANCE ANNUAL REPORT**

- 5.1 There are a number of pieces of legislation and good practice standards that govern the IG arrangements of the Council and these are listed in the background information at the end of this report. The Information Commissioners Office (ICO) is the regulatory body responsible for ensuring Councils meet information legislative requirements relating to information governance.
- 5.2 The Local Authority Data Handling Guidelines recommend that each local authority should appoint a Senior Information Risk Owner (SIRO). The SIRO should be a representative at senior management level and has responsibility for ensuring that

management of information risks are weighed alongside the management of other risks facing the Council such as financial, legal and operational risk. At Telford & Wrekin Council the nominated SIRO for the period covered by this report was the Associate Director: Policy & Governance.

## Information Rights

5.3 Information rights is a collective name for 3 main pieces of legislation in respect to public sector information, these are:

- **Freedom of Information Act 2000** – encompasses any information held by the Council
- **Environmental Information Regulations 2004** – information with an environmental impact
- **Data Protection Act 2018** – looks at personal information relating to individuals

5.4 The IG Team has continued to play a key role in providing assurance that the Council complies with information rights legislation during the year. The IG Team has responsibility for the administration of all information rights requests on behalf of the Council including the application of relevant exemptions in respect to requests received. It also co-ordinates and guides service areas when the Council receives a subject access request (someone requesting their personal information) or a request to access social care records, e.g. a parent asking to view the contents of their child's records.

5.5 The ICO has set a benchmark of 90% for responding to FOI requests within the 20 working day statutory deadline for responding to requests.

5.6 See table below for figures relating to FOI performance for the year 1 April 2020 to end of March 2021 compared with the same period for the previous year:

	19/20	20/21	% Increase / Decrease
Number of FOI requests received	1181	1030	-13
Average number of FOI requests received per month	98	86	-12
% of FOI requests responded to within statutory deadline	88	87	-2
Average time taken (days) to respond to each request	10	12	+20

As can be seen from the figures in the table above, the Council's performance in responding to FOI requests within statutory deadlines in 2020/21 was comparable to the previous years.

In addition to the above the Council received 37 requests (34 in 19/20) that were processed under the Environmental Information Regulations (EIR) 2004. 84% (79% in 19/20) of these requests were responded to within the 20 day deadline.

5.7 In this period IG have received and responded to 28 appeals from requestors who were not satisfied with the response they received to their FOI request. This compares to a total of 16 appeals in 2019/20. To date only 3 of these appeals have been upheld/partly upheld.

- 5.8 During this period IG received 4 complaints/referrals from the Information Commissioner (ICO) in respect to complaints made to them in relation to freedom of information requests (2 complaints) and data protection requests (2 complaints).

The ICO did not take any action against the Council in relation to the complaints made to them. The ICO were satisfied that the Council had already complied with relevant legislation and/or provided further confirmation to the requesters in question.

- 5.9 The UK Data Protection Act 2018 requires the Council to respond to subject access requests (SARs) within one month of receipt unless the request is deemed complex when a further two month extension can be applied.

In 2020/21 the Council received 143 subject access requests. This is a 49% increase in the number of requests received compared to 2019/20.

Of the requests that had been responded to in 20/21, 94% were responded to within the legislative timescale set. This compares to 91% responded to within timescales in 19/20.

The complexity and number of SARs have increased significantly in 202/21. One request alone included approximately 15,000 document which had to be read and redacted. IG continually review its procedures for processing subject access requests and feel that these are streamlined and fit for purpose. However further reviews will take place to ensure processes improve where possible.

### **Data Security Incidents**

- 5.10 It is unrealistic to consider, given the amount of personal data Council services handle on a daily basis, that human errors will not occur which may result in a data breach. IG supports the investigation (with service areas) of all instances of alleged data breaches that are identified and referred to them. A data breach can cover a number of different incidents from a member/employee reporting a lost mobile phone to personal data being communicated to an unauthorised and/or incorrect recipient.

For each data breach identified in 2020/2021 a thorough investigation has been undertaken into how the breach occurred, confirmation of any individuals that have been informed in compliance with the Data Protection Act 2018 and lessons learnt identified and implemented to reduce the likelihood of similar data breaches occurring in the future.

The IG Team continues to work with service areas to improve the secure processing of personal data to prevent data security incidents.

- 5.11 The Council self-reported 1 data breach in 2020/21 as it met the criteria under the Data Protection Act 2018 for reporting to the Information Commissioners Office (ICO). In this instance the ICO were satisfied that the breach was due to human error and no further action was required.

### **Information Governance Related Audits & Work Programme**

- 5.12 The 2020/2021 IG work programme was agreed at the July 20/21 Audit Committee. Progress to date in respect to this programme is shown attached as Appendix 1.
- 5.13 Appendix 2 details the proposed IG work programme for 2021/2022 for approval. This programme mainly incorporates key actions required to facilitate the legal requirements of the UK GDPR.

## 6 2020/2021 CALDICOTT GUARDIAN ANNUAL REPORT

### Caldicott Guardian (CG) Function – Key Responsibilities

- 6.1 A requirement for the Audit Committee is to consider the Caldicott Guardians (CG) annual report / action plan. The first CG report was presented at the June 2015 Audit Committee meeting.

Caldicott Guardians were introduced into social care with effect from 1 April 2002, under Local Authority Circular LAC (2002)2 dated 31 January 2002. Caldicott Guardians play a key role in ensuring that the NHS, Councils with Social Services Responsibilities and partner organisations satisfy the highest practical standards for handling patient identifiable information under a framework which complies with the requirements of the Data Protection Act 2018; they actively support work to enable information sharing where it is appropriate to share; and advise on options for lawful and ethical processing of information

- 6.2 In February 2017 Sarah Dillon was appointed AD: Adult Social Care and has since undertaken the role of Caldicott Guardian (CG).

- 6.3 In terms of CG activity please see summary below:

6.3.1 **GDPR** – the requirements of this legislation have been fully implemented with all staff completing relevant GDPR training. Each service continues to have an IG lead and receive and disseminate regular updates.

6.3.2 **Electronic Adult Social Care database and financial systems now embedded - since** implementation in October 2018. The Data Protection Officer continues to support the service in monitoring the Data Protection Impact Assessment on the system. In 2020 there was a full audit of the financial management processes including the appropriate use of financial and case management systems and processes. The outcome of this audit provided assurance.

The Adult Social Care electronic record self-service portal is in development and will be implemented this year. The Data Protection Officer will be involved in completing the Data Impact Assessment. This portal will mean that citizens with care and support needs will have an online account that they can access and use to manage their care and associated finances.

6.3.3 **Adult Social Care Breaches** – new reporting system in place where IG inform the CG of all breaches related to social care data.

6.3.4 **Integrated working with key partners** – Information sharing protocols have been agreed and are updated regularly, supported by the Data Protection Officer. This will continue to be an important aspect as we further integrate service delivery and records with health partners as per the recent White Paper about the integration of health and social care and the development of our ICS (Integrated Care System) locally.

Our Telford and Wrekin Integrated Place Partnership (TWIPP) is our key local vehicle for development and delivery and a direct link to the ICS Board. There are work streams including Digital Information Governance Group which have regular input from the Caldicott Guardian and Data Protection Officer to ensure that all information governance requirements are met as we move towards further integrated pathways and partnerships.

The development of the Integrated Health and Care Record is a currently fast developing programme of work which has involved the Data Protection Officer with regular updates to the Caldicott Guardian and the TWC Senior Management Team. Communications with the public about the data protection aspect is just starting and there is a graduated implementation which will see integration of health and care records to improve communications between professionals and improved outcomes for the citizen.

**6.3.5 Quality Assurance** – Regular review meetings are in place with the Senior Information Risk Owner, CG and Data Protection Officer to ensure that further development and assurance of our data protection systems continue in relation to our support of those with care and support needs particularly as we integrate records and delivery further with health and care partners.

## **7 CONCLUSIONS FOR 2020/2021**

7.1 Despite the Council experiencing significant challenges due to the global pandemic the Information Governance Team have performed well and made a positive contribution to the governance arrangements within the Council in 2020/2021.

## **8 OTHER CONSIDERATIONS**

<b>AREA</b>	<b>COMMENTS</b>
Equal Opportunities	All members of the IG Team have attended equal opportunities/ diversity training. If any such issues arose during any work the appropriate manager would be notified.
Environmental Impact	All members of the IG Team are environmentally aware and if any issues were identified they would be notified to the appropriate manager.
Legal Implications	Compliance with the Information Rights legislation mentioned in this report is mandatory. When assessing compliance, the ICO will consider approved policies and procedures of the authority.  NHS and Social Care Caldicott Guardians are required to be registered on the publicly available National Register of Caldicott Guardians. The UK Council of Caldicott Guardians, an elected body made up of Caldicott Guardians from health and social care, meets four times per year and publishes a manual for Caldicott Guardians (currently 2017) which sets out the roles and responsibilities of the Caldicott Guardian. The Health & Social Care Information Centre [HSCIC] publishes guidance and resources for Caldicott Guardians. AL 18/05/2021
Links with Corporate Priorities	All aspects of the IG teams work support good governance which underpins the achievement of the Council's objectives and priorities.
Risks and Opportunities	All aspects of the IG teams work supports managers and the Council to identify and manage their information risks and opportunities.
Financial Implications	Costs associated with the Information Governance and Caldicott Guardian work outlined in this report are met from the Council's base budget. TAS 12.5.21
Ward Implications	The work of the IG team encompasses all the Council's activities across the Borough and therefore it operates within all Council Wards.

## 9 **BACKGROUND PAPERS**

Corporate Information Security Policy

Corporate Information Security Breach Procedure

Local Authority Data Handling guidelines

ISO27001 (standard for information security)

Data Protection Act 2018

Freedom of Information Act 2000 (fully introduced 2005)

Environmental Information Regulations 2004.

Caldicott Review - <https://www.gov.uk/government/publications/the-information-governance-review>

Information: To Share or not to Share – Government Response to the Caldicott Review.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192572/2900774\\_InfoGovernance\\_accv2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192572/2900774_InfoGovernance_accv2.pdf)

Report by Rob Montgomery Audit & Governance Lead Manager. Telephone 383103

## Update on Information Governance (IG) Work/Compliance Programme 2020/2021

No	Task	Completion Date	Update as at 31/3/21
1	Administer FOI/EIR/DPA requests, appeals and associated correspondence from the ICO.	Ongoing	Performance comparable with 202/21
2	Continue the provision and promotion of additional services to schools within and outside the area to generate agreed income.	Ongoing	Significant number of schools and parish councils renewed agreements.  3 new customers also signed up to agreements.
3	Investigate instances of possible data breaches and ensure appropriate improvements within services and processes are made.	Ongoing	Ongoing support to services and liaison where necessary with ICO.
4	Support service areas to address any information security risks that arise.	Ongoing	As above.
5	Monitor compliance with GDPR/DPA 2018 and associated Council policies. This includes the assignment of responsibilities, awareness raising, training of staff and associated audits.	Ongoing	Compliance work completed in year contributing to accountability principle.
6	To provide advice where requested on Data Protection Impact Assessments (DPIA) and monitor performance in this area.	Ongoing	DPIA's completed on a number of projects in year that are reviewed and signed off by IG.
7	To co-operate with the Information Commissioners Office (ICO) in any relevant engagement.	Ongoing	The IG Team continue to be the key contact with ICO.
8	Inform and advise the Council and its employees who carry out personal information processing of their obligations under GDPR/DPA 2018.	Ongoing	IG/GDPR related training available on Ollie, this includes the provision of a new 'Working from Home' module.  The IG Team provides various updates to staff throughout the year.
9	Review and update the Corporate Information Security Policy (CISP)	End of March 2021	Complete, new policy in place and publicised to staff.

10	Complete Data Security & Protection (DSP) toolkit assessment for central government.	End of March 2021	Complete.
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## Information Governance (IG) Work/Compliance Programme 2021/2022

No	Task	Completion date
1	Administer FOI/EIR/DPA requests, appeals and associated correspondence from the ICO.	Ongoing
2	Continue the provision and promotion of additional services to schools within and outside the area to generate agreed income.	Ongoing
3	Investigate instances of possible data breaches and ensure appropriate improvements within services and processes are made. This would include acting as a point of contact for the ICO.	Ongoing
4	Support service areas to address any information security risks that arise. This would include acting as a point of contact for the ICO.	Ongoing
5	Monitor compliance with GDPR/DPA 2018 and associated Council policies. This includes the assignment of responsibilities, awareness raising, training of staff and associated audits.	Ongoing
6	To provide advice where requested on Data Protection Impact Assessments (DPIA) and monitor performance in this area.	Ongoing
7	To co-operate with the Information Commissioners Office (ICO) in any relevant engagement.	Ongoing
8	Inform and advise the Council and its employees who carry out personal information processing of their obligations under GDPR/DPA 2018.	Ongoing
9	Review and update the Corporate Information Security Policy (CISP).	End of March 2022
10	Complete Data Security & Protection (DSP) toolkit assessment for central government.	End of March 2022