

REPORT TO EXECUTIVE

Date of Meeting: 2 November 2021

REPORT TO COUNCIL

Date of Meeting: 14 December 2021

Report of: Chief Executive and Growth Director

Title: Requests for Information

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

The report explains the options available for accessing information held by the Council, including use of the Freedom of Information Act. It summarises the number of requests that have been received in the last three years, the nature of those requests, how they are handled, and the resource implications.

2. Recommendations

That Executive and Council note the report.

3. Reasons for the recommendation

To ensure members are appraised of the volume of work involved in dealing with requests for information.

4. What are the resource implications including non-financial resources?

As set out in section 5 of the reported. There are no additional resource implications at this point.

5. Section 151 Officer comments

There are no financial implications for Council to consider contained in this report.

6. What are the legal aspects?

None identified

7. Monitoring Officer's comments

This is a report is for members information and as such I have no comments to make.

8. Report details

8.1 Options for accessing information

8.1.1 The Freedom of Information Act 2000 provides public access to information held by public authorities. The Act covers any recorded information that is held which includes emails, photographs and sound or video recordings.

8.1.2 The Environmental Information Regulations 2004 provides public access to environmental information held by public authorities. The Regulations cover all recorded information as outlined above.

8.1.3 The Data Protection Act 2018 gives individuals access to their own personal information. Individuals requesting information about themselves should make a data protection subject access request.

8.1.4 In addition, the Local Audit and Accountability Act 2014 provides for the public right to inspect the accounts of a local authority.

8.2 Numbers of Freedom of Information / Environmental Information Regulations requests

8.2.1 The access to information legislation has become more widely publicised and quoted in the media, which has meant the number of requests and their complexity have increased over the years.

8.2.2 The table at Annex A details the number of requests received each month since 1 October 2018, whether the information was disclosed and whether an internal review was carried out (where applicants were dissatisfied with the Council's initial response). In summary:

Between October 2018 and September 2021 a total of 2246 requests have been handled

There were 792 requests in 2019, 738 requests in 2020 and, to date, 545 requests in 2021

26 requests involved an internal review

8.2.3 When comparing each months data year on year, the numbers have generally increased. However, the increases vary considerably as the following demonstrates:

June 2019: 54 requests	June 2021: 57 requests	Increase of 6%
May 2019: 54 requests	May 2021: 64 requests	Increase of 19%
Feb 2019: 56 requests	Feb 2021: 70 requests	Increase of 25%

8.2.4 It is thought the numbers decreased slightly between March 2020 – August 2020 and December 2020 – February 2021 due to the pandemic. From the data recorded, it is not possible to see a consistent pattern in the increased numbers, which may be partly due to the pandemic.

8.3 Types of request

8.3.1 Having reviewed the requests received over the last year, information on the following subjects has been frequently requested:

- ICT

- Business rates (some of this information is withheld as it is already accessible on the Council's website)
- Deceased no next of kin (the majority of this is withheld)
- Homelessness / temporary accommodation / housing advice
- HR – furlough, recruitment, staff numbers
- Planning
- Grants (the majority relate to the coronavirus grants, which is partly published on the Council's website)
- HMOs
- Licensing
- Contracts
- Parking (some relate to Devon County Council issues and the applicant is directed to them)
- Noise / nuisance complaints / ASB
- Burials (now accessible on the Council's website)
- Recycling / waste
- Property related environmental health issues / private rental sector
- S106
- Benefits / supported living / welfare scheme
- Officer / service contact details
- Arrears / debt collection
- Information governance / digital services
- Council tax
- General housing
- Play areas / playing fields
- Electric vehicles / charging points
- Trees
- Statues
- Toilets
- New homes completion / affordable homes and
- Grass verges / weed control.

8.3.2 It is very rare that two requests are the same. However, where the same information is frequently requested, the Council has proactively made the information available on its website. Examples are burial numbers and business rates information. The information is then exempt from disclosure.

8.3.3 Requests vary in complexity, from a simple request for information that can be turned around relatively quickly, to requests that progress to an internal review and a decision by the Information Commissioner's Office. These cases can take many months.

8.3.4 The complexity of requests is rising significantly as individuals are increasingly using the legislation to access information relating to an issue affecting them personally or topical issues both in the media and locally.

8.4 Who is requesting the information?

8.4.1 Applicants do not have to provide a postal address or state whether they are acting on behalf of an organisation, therefore there is little evidence to validate this, but the majority of requests appear to be from:

- Organisations wanting to either work with the Council or use the information to gain an advantage in their trade, for example information relating to business rates, contracts/procurement information, officer/service contact details.
- Organisations who annually request information for their research, for example information on dangerous wild animals, homelessness data.
- Journalists requesting information for a story, for example information on furloughed staff, numbers of toilets/playgrounds closed, number of electric charging points, overcrowding in houses.
- Local journalists requesting information on topical issues for example the Liveable Exeter Place Board, Leisure Services contracts, Exeter Development Fund.
- Individuals with personal issues, for example relating to hedge boundaries, noise complaints, property related problems with their landlord, parking related matters.
- Local residents requesting information on topical issues for example the removal of statues.

8.5 Handling requests

8.5.1 Each request has to be assessed individually under the relevant legislation. Under the Freedom of Information Act 2000, requests can be refused if it would take longer than 18 hours to deal with the request. The Council must provide advice and assistance to the applicant to enable them to submit a refined request. Requests can also be refused if it is felt the request is vexatious. Indicators which may suggest a request is vexatious include: unreasonable persistence, abusive/aggressive language, personal grudges, burden on the Council, deliberate intention to cause annoyance, disproportionate effort. The Council does not have to comply with vexatious requests and there is no requirement to carry out a public interest test.

8.5.2 Under the Environmental Information Regulations 2004, requests can be refused if the request is manifestly unreasonable on the grounds that the request is vexatious or on the grounds of costs or diversion of resources. If the request is to be refused on the grounds that it is vexatious, the Council should consider the public interest test (which is not required under the FOIA). If a request is to be refused on the grounds of cost, the Council should provide the requester with appropriate advice and assistance which would usually involve setting out the costs involved in answering the request and explaining how it might be refined to make it more manageable. The Council also has to consider the public interest test and there should be a presumption in favour of disclosure.

8.6 The Publication Scheme

8.6.1 As well as responding to requests for information, the Council must proactively publish information. The Freedom of Information Act 2000 requires every public authority to have a publication scheme, approved by the Information Commissioner's Office, and to publish information covered by the scheme.

8.6.2 The scheme sets out the Council's commitment to make certain classes of information routinely available, for example, minutes of meetings, policies, annual reports and financial information.

8.6.3 The Council has adopted the Information Commissioners model publication scheme and it is available on the Council's website under '[The Publication Scheme](#)'. Information requested under the scheme should be made available quickly and easily.

8.6.4 The information the Council releases in accordance with its publication scheme represents the minimum which must be disclosed. The Council is committed to making information available under the following classes:

- Who we are and what we do - Organisational information, locations and contacts, constitutional and legal governance.
- What we spend and how we spend it - Financial information relating to projected and actual income and expenditure, tendering, procurement and contracts.
- What our priorities are and how we are doing - Strategy and performance information, plans, assessments, inspections and reviews.
- How we make decisions - Policy proposals and decisions. Decision making processes, internal criteria and procedures, consultations.
- Our policies and procedures - Current written protocols for delivering our functions and responsibilities.
- Lists and registers - Information held in registers required by law and other lists and registers relating to the functions of the authority.
- The services we offer - Advice and guidance, booklets and leaflets, transactions and media releases. A description of the services offered.

8.7 Impact on resources

8.7.1 As the complexity of the requests has increased it has meant more time is being spent on gathering the information, consulting third parties, reviewing the exemptions / exceptions, redacting information and applying the public interest test when necessary. The complexity of the requests has meant more officers from all services have had to gather information and draft responses. Over the last year, Legal Services have increasingly had to be consulted on access to information matters in order to provide guidance on the application of the law and redact contracts.

8.7.2 Time spent by officers dealing with requests is not recorded. Currently there is only one dedicated FOI officer responsible for coordinating and responding to requests for information, which includes requests made under the Data Protection Act 2018 and the Audit and Accountability Act 2014.

8.7.3 The Council has a strong track record of responding to all requests effectively and efficiently in line with its legal obligations. This involves significant input by officers at all levels across the authority, which inevitably diverts resources from other priorities. Whilst the costs of dealing with each response are not recorded, the following example is indicative of the time and hourly costs (with on costs) involved in dealing with a request:

- FOI officer – processing request, liaising with legal colleagues, redacting documents - 5 hours @ £25 per hour;

- Legal officer – provision of legal advice, reviewing information and reviewing response – 3 hours @ £41 per hour
- Middle manager – collating and reviewing information - 5 hours @ £31 per hour
- Director – collating and reviewing information, agreeing response - 1 hour @ £58 per hour

Total estimated resources in dealing with request: 14 hours, £461

8.7.4 It is also of interest to note that several officers spent many weeks collating, copying, reviewing and redacting documents in response to a request under the Local Audit and Accountability Act 2014 to inspect the 2019-20 accounts and subsequently the 2020-21 accounts. The legislation allows any taxpayer or journalist to inspect records in respect of any information contained within the Statement of Accounts during a specified 30 day period and can therefore involve significant levels of detail.

8.8 Managing the burden

8.8.1 Under the Freedom of Information and Environmental Information Regulations there is a general presumption in favour of disclosing information, which is also promoted by the Information Commissioner's Office. Annex A illustrates the high proportion of information that we disclose in response to requests. As part of our commitment to openness and transparency a significant amount of information is published on our website and, specifically, on the Council Data pages.

8.8.2 The bespoke and very specific nature of many information requests means that even full publication will not reduce the workload. It is not feasible to publish all emails, letters, confidential reports requiring redaction, transcripts etc. without manual intervention.

8.8.3 We will, however, continue to review and update our working practices, which will include:

- Reviewing our Publication Scheme in 2022
- Working with all officers to publish information
- Improve information and document management and effective email storage exploiting the opportunities offered by Microsoft 365, which will be implemented in 2022

9. How does the decision contribute to the Council's Corporate Plan?

9.1 Effective and efficient compliance with access to information regulations is essential for a Well-Run and open and transparent Council.

10. What risks are there and how can they be reduced?

10.1 The impact on officers' workloads across the Council is set out in the report. This is kept under constant review alongside the proposals set out in section 8.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because the report is for information only.

12. Carbon Footprint (Environmental) Implications:

No direct carbon/environmental impacts arising from the recommendations.

13. Are there any other options?

As set out in section 8 of the report.

Director: Chief Executive and Growth Director

Author: Bruce Luxton, Corporate Manager Executive Support

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

Contact for enquires:
Democratic Services (Committees)
Room 4.36
01392 265275