

# Powys Internal Audit

## INTERNAL AUDIT REPORT

### Freedom of Information

***Audit Year: 2013 / 14***

***Release Date: 17th February 2014***

**CONFIDENTIAL**

This report is a final version incorporating final comments from clients. Information contained in this report is confidential and is only intended for the use of Powys County Council.

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**Status of this report**

This report has been prepared for the internal use of the Powys County Council and its contents are confidential. The work involved in the production of this audit report complies with the principles outlined in Public Sector Internal Audit Standards and CIPFA's Local Government Internal Audit Manual.

**1.0 INTRODUCTION**

1.1 Internal Audit is an assurance function that primarily provides an independent and objective opinion on the control environment. This is done by effectively contributing to the statutory requirement in the Accounts and Audit Regulation 2005 for the Council to maintain sound systems of Internal control.

1.2 This audit is a combined review of both Freedom of Information (FOI) [REDACTED]

1.3 The management of information is a high profile area that is seen as very important in maintaining the reputation of the Council.

**2.0 AUDIT OBJECTIVES**

2.1 The objective of this audit is to give assurance that the Freedom of Information requests are handled in accordance with the Freedom of Information Act [REDACTED]

**3.0 AUDIT APPROACH**

3.1 The approach used was to contact the Customer Services Manager to arrange a meeting with the Registration Services Manager to discuss procedures. Then, through examination and testing, review the following areas: -

**3.2 Freedom of Information**

- Documented policies and procedures are in place.
  - Effective Compliance with the policies, procedures and current legislation.
  - Recommendations following the previous audit report in 2008 have been implemented.
  - Responses to requests for Information are dealt with in a timely manner.
  - All requests are appropriately authorised and actioned.
  - Fees collected / charges made are all appropriate and calculated correctly.
  - An accurate record of requests is maintained.
  - The number of complaints received is dealt with in accordance with correct procedures.
  - All Departments are aware of procedures following a request for information.
  - Non-compliance with the Freedom of Information legislation are investigated and action taken.
  - Adequate training/guidance has been issued to all departments.
  - Effective reporting / monitoring mechanisms are in place.
  - Information Governance Standards and Security policy is followed.
- [REDACTED]
- [REDACTED]



**4.0 MANAGEMENT SUMMARY**

It is acknowledged that the Council has effective Policies and Procedures established for both FOI and RIPA.

- 4.1 In April 2013 the Records and Compliance Manager left the employment of the Authority so the system of dealing with FOI requests was then reviewed and updated. As a result, certain roles within the procedures have been delegated and all individuals have a much improved understanding of the regulations that cover their work.
- 4.2 Testing of FOI requests highlighted that not all requests for information from Departments are being received within the set timescales. Further testing of the reasons for complaints from the public confirmed this fact because two thirds of all reviews into complaints were carried out because the FOI information was supplied late, to requestors.
- 4.3 No FOI awareness training has been provided to staff other than the training given to Members by the former Records and Compliance Manager several years ago.
- 4.4 In addition, no FOI training, other than the training given to Information Management staff, has been given to staff since the previous audit. This may result in lack of awareness of the regulations and could cause reputational damage to the Council if FOI requests are not dealt with appropriately.

[REDACTED]

[REDACTED]

## 5.0 AUDIT OPINION

The overall audit opinion on the Freedom of Information [REDACTED] is **Qualified Assurance**. The Majority of key controls exist, but with some areas of inconsistent application. These should not significantly affect the service objectives.

## 6.0 THE WAY FORWARD

- 6.1 Internal control weaknesses, risks and agreed actions arising from this audit review are included in the attached action plan. Management should ensure that they promptly implement the actions to enable effective service delivery and use of public funds.
- 6.2 The Internal Audit Team offer management help and guidance on matters of internal control. However, it should be made clear that the existence of internal audit does not diminish the responsibility of management to maintain effective systems of internal control.
- 6.3 If the opinion of your audit review determines that "Low Assurance" or "Limited Assurance" can be gained on the systems of control, the report is sent to the Head of Professional Services, the Director of Resources (Section 151 Officer), the Cabinet Portfolio Member and the chair of the Scrutiny Committee for that Service. In addition, a summary of the key elements of the report will be presented to either the Audit Committee or Audit Committee Working Group for their consideration. Officers may be asked to attend the Audit Committee / Working Group to explain why the service has failures in internal control and to outline their suggested corrective measures.
- 6.4 Service Managers are responsible for implementing the agreed actions. The Audit Committee and its Working Group will be responsible for receiving assurance from the services that those agreed actions have been implemented. In addition, Internal Audit will consider those assurances and re-schedule future visits based on the risk that they pose.

## 7.0 ACKNOWLEDGEMENTS

- 7.1 The Internal Audit Team wishes to thank those Officers that have contributed and aided in the production of the audit report. If you would like to discuss this report or any related matters in further detail, please contact Julie Rees, Principal Auditor on 01597 826889.

## 8.0 ACTION PLAN

Ref	Control Weakness	Consequences / Risk	Grading	Agreed Actions by Client	When and by Whom
8.1	Testing identified that requested FOI information is being provided to the Requestors late. Departments are not responding to requests on time thereby causing the majority of complaints to be instigated.	The Council may incur reputational damage if responses are delayed.	Significant	Reports provided to CIGG (whose membership are the Directors and Heads of Service) on a monthly basis confirming the demand and service areas where requests have been late  The IMU Service Manager has no control over the timeliness of responses and therefore can't be responsible for late requests	Email already sent to HOS on 3.12.13 to raise awareness that responses are often late and remind them again of our statutory obligations.
8.2	It was identified that Departmental awareness was limited regarding FOI.	The Council may not comply with the FOI Act.	Merits Attention	Service Managers are responsible for ensuring that all their staff are adequately trained as required by the job role.	BC will send out an 'all lists' to raise awareness of the subject on our intranet pages and the E-Learning training by 31.3.14
8.3	FOI Training has not been provided to Council employees for many years.	The Council is at risk if sensitive information is forwarded to the Public.	Merits Attention	There is no intention in the current economic climate to undertake Face to Face training courses.	BC to send 'all lists' to raise awareness of training by 31.3.14

**APPENDIX A****A DETAILED FINDINGS****A1 FOI - Policy**

A1.1 The Authority's "Freedom of Information" Policy is available to view on the staff Intranet page 2609. It was explained by the Registration Services Manager that this policy document is only revised or updated when changes have been made to the legislation. This Policy was last reviewed earlier this year (2013).

A1.2 It was explained by the Customer Services Manager at the opening meeting that the Information Commissioner is due to visit in mid-November 2013 which resulted in the first draft report issued in early December 2013.

A1.3 In April 2013, the Records and Compliance Manager left the employment of the Authority so the system of working was then reviewed and updated. As a result, certain roles within the procedures have been delegated and all individuals have a much improved understanding of the regulations that cover their work.

A1.4 Since April 2013, FOI requests are all recorded using the Civica Computer System. Prior to April they were recorded on the X Drive or the M Drive, using "Powersoft" software.

**A1 FOI - Procedures**

A1.5 The current procedure is that all requests for information are initially forwarded to the Registration, Records & Compliance Manager. The RSRCM then decides whether the information request is to be dealt with as a request under one of the following headings: -

Freedom of Information  
Data Protection Act  
Environmental Information Regulations

A1.6 The working procedures were explained by the Registration, Records & Compliance Services Manager as follows: -

- Requests for information are forwarded to the Registration Services Manager then a decision is made regarding which category the request belongs in.
- The request is allocated the next number F (FOI)/E (Enviro)/D (DPA) 2013 ... then the next sequential number (numbers do not fully run consecutively because the Civica system is also used by other areas of the Council such as Social Care Adults, Social Care Children, Social Care Complaints and also Corporate Complaints and Compliments).
- The RSM gives the request a title by abbreviating the nature of the request.
- The request is then forwarded to one of the Tasking Officers to carry out the work.
- The Tasking Officer sends out an acknowledgement to the requestor and includes a date when it is due for completion. The information is requested as "requester blind" i.e. the detail of the individual making the request is not conveyed. It is fundamental that the requestor of information remains anonymous.
- The Tasking Officer sends the request to a Contact Officer with the details of the person making the request not shown. The Contact Officer is either responsible for obtaining the response or is in a position to identify the best person able to provide the response.
- If a reply is not received by a certain date then the Tasking Officer sends a reminder to the service.

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- A draft of the response is forwarded to the RSM for any sensitive items to be redacted if necessary.
- A copy of the response is forwarded to the Head of Service and if no reply is received in three days, the response is sent to the requestor.
- The response is sent to the requestor with the closing paragraph that the request is complete and considered closed.
- At the bottom of the information is a paragraph stating that "If you are still not satisfied following this, you can make an appeal to the Information Commissioner, who is the statutory regulator. The Information Commissioner can be contacted at:

*Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Telephone 01625 545 700  
[www.informationcommissioner.org.uk](http://www.informationcommissioner.org.uk)*

- A1.7 Legislation requires that requests for information are given due response according to the type of information requested. The three categories of information fall under the headings of Freedom of Information, Environmental Information Regulations and the Data Protection Act.
- A1.8 Requests for information that are deemed to fall under the "Freedom of Information" are allowed 20 working days for a response to the requestor and no fees are charged, however, if the cost is likely to be more than £450 or take more than 18 hours' worth of work to collate the information then the Council do not have to provide information.
- Requests for information that are deemed to fall under "Environmental Information Regulations" requests must also be responded to within 20 working days and no charge is made. There is no upper limit with regard to cost or time
- Requests for information that are deemed to fall under the Data Protection Act are allowed 40 calendar days to respond, plus a charge of £10 is made for this service.
- A1.9 It was explained that certain requests for information are considered unreasonable (vexatious), and an exemption would be applied if this was the case as per the Act. There are instances where the request for information is not forwarded to a service e.g. information on Public Health funerals and also other information that is readily available to members of the public from another source (e.g. PCC Website).
- A1.10 A large number of information requests are received from political party researchers or the media, who are researching items to be included in the News.
- A2 **FOI - Compliance**
- A2.1 Access to the Civica Computer System was obtained and the Auditor was able to carry out testing of the records held on the system. Testing was carried out as follows: -

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### Freedom of Information Requests

The majority of correspondence requesting information is received via e-mails therefore, the replies are also sent as e-mails.

- A2.2 A sample of 35 requests for information was examined which all had been given an abbreviated name due to the fact that there are only 45 characters within the system.

All requests for information were acknowledged either on the day of receipt or the next working day apart from two requests: -

- (a) F2013 -913 Regarding Public Health Funerals – no information was provided because this information is held on the Powys County Council website. Requestors are informed of this fact and advised to look at the website.

- (b) F2013 – 993 Regarding Leased Cars and Civic Office – no correspondence ensued.

- A2.3 Apart from the two examples above, the sample of FOI requests were all satisfactorily tested as follows: -

- A completion date was given in the acknowledgement e-mail – twenty working days from the date of receipt.
- The correspondence involved the Registration Services Manager either at the start or at the end of the process in all but five of the requests.
- The Tasking Officer was identified in all requests.
- All requests were forwarded to Departments for information on the day of receipt or the next working day apart from one which was sent four working days after receipt.
- All requests had a named individual or individuals as Departmental contacts, i.e. these individuals were forwarded the information requests then they decided who to send them on to in order to provide the information. However, six were sent to "Care & Wellbeing", one was "already being dealt with" that had no contact details and a further two were addressed to a member of staff working within "Information Management" office.
- Reminders were sent to departments to ensure that information is received in time, only two requests need more than the one reminder.
- The final information received back was forwarded to the Head of Service on fifteen occasions.
- Four of these Heads of Services were advised of the information on the day the response was sent to the requestor.
- The information to be sent out from Information Management was seen to be forwarded to the "Registration Services Manager" for fifteen of the requests and to the Senior Records and Compliance Assistant on two requests.
- Of the 33 requests tested, 25 were sent out early or on the day, 5 more were sent out within three days of the advised date and three were later. 1 was eight days, 1 was ten days and 1 was seventeen days late.

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### **Environmental Information Regulations**

- A2.4 The majority of correspondence requesting information is received via e-mails therefore, the replies are also sent as e-mails.

A sample of 15 requests for information was examined which all had been given an abbreviated name and all found to be satisfactory.

- All requests for information were acknowledged either on the day of receipt or the next working day.
- A completion date was given in the acknowledgement e-mail – twenty working days from the date of receipt.
- All but three of the requests were forwarded to the Registration Services Manager at the start of the process.
- The Tasking Officer was identified in all requests.
- All requests were forwarded to Departments for information on the day of receipt or the next working day apart from one which was sent six working days after receipt.
- All requests had a named individual or individuals as Departmental contacts, i.e. these individuals were forwarded the information requests then, they decided who to send them on to in order to provide the information. However, one was sent to a member of staff working within "Information Management" office.
- Seven of the requests for information required an e-mail reminder to chase up the information.
- Nine responses to requests for information were sent to the Head of Service, however, five of these responses were sent on the same day that they were sent to the information requestor.
- One response was two days late, one response was one day late the remaining responses were either issued on the due date or they were issued early.
- It was noticed that some of these responses involved large amounts of information e.g. one involved 28 documents being supplied to the requestor.

### **Data Protection Act**

- A2.5 The majority of correspondence requesting information is received via e-mails therefore, the replies are also sent as e-mails.

A sample of 10 requests for information was examined which all had been given a generic name due to the nature of the information requested e.g. Sar, planning application or Sar Social Services (Sar = Subject Access Request).

- All requests for information were acknowledged either on the day of receipt or the next working day apart from one which was delayed for approximately one month.

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- All payments of £10 for each request were identified on the Council's e-financials system.
- The completion dates were all identified on the acknowledgements (N.B. 40 days are allowed).
- All of the requests were received by the Registration Services Manager or the Senior Records and Compliance Assistant at the start of the process.
- The Tasking Officer was identified in all requests.
- All requests were forwarded to Departments on the day of receipt apart from one because the payment had not been included with the application.
- All requests had a named individual /individuals as Departmental contacts, i.e. these individuals were forwarded the information requests then they decided who to send them on to in order to provide the information. However, five were sent to a member of staff working within "Information Management" office.
- Three requests needed reminders.
- Two of the requests are still outstanding, one response was provided 6 days late and the remaining responses were all provided early.

### A3 FOI - Previous Review

- A3.1 Details of the previous review held in 2008 that resulted in two recommendations are included in the Appendix B of this report. The recommendations were both satisfactorily addressed.

### A4 FOI - Response Timeliness

- A4.1 Requests for information received by the Records and Compliance Officers based at the Ddole Road Office are recorded using the Civica Computer system. The intention is that all correspondence is to be retained on the Civica files for three years from the date of the last transaction, and then the information will be wiped off the system.
- A4.2 Access to the Civica Computer system was provided to Internal Audit, in order to enable testing of the current live system.
- A4.3 A sample of 35 requests for information under FOI was tested. Four of the requests for information were provided to the requestor's late, i.e. after the expected completion date. The longest delay was a period of 17 days concerning a request made to the Legal Department. The vast majority (88%) of the sample requests tested resulted in information being provided to the requestor within the time allowed.

### A5 FOI - Authorisation

- A5.1 With the introduction of the Civica computer system to record information requests, there is no written authorisation process. The Requests are given their individual numbers and from that the correspondence is traceable.
- A5.2 Testing was undertaken that established the procedures are being complied with and within the timescales stated in the majority of instances. Assurances were given that all correspondence is traceable.

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### A6 FOI - Fees Charged

- A6.1 There are no charges made for requests for information, under both the "Freedom of Information" Act and also "Environmental Information Regulations". It is stated in the PCC Intranet/FOI Website that nominal charges may be made for photocopying. This in effect is not the case because the vast majority of information released under the above legislation is done so electronically via e-mail.
- A6.2 Under Data Protection Act regulations the Council is allowed to charge £10 for the supply of the information requested. A sample of requests was selected and the corresponding charge for each was satisfactorily identified using the e-financials records system.

### A7 FOI - Records

- A7.1 The Civica Computer system is used by various departments within the Council to record Corporate Complaints, Corporate Compliments, Adult Social Care Complaints, Adult Social Care Compliments, Children Social Care Complaints and Children Social Care Compliments as well as the three Information categories. As a consequence, the same numbering system is being used i.e. the sequential numbers are generated by the system without regard to the area of work involved.

The result is that it is not possible to verify that the records are numerically complete. i.e. not sequential

- A7.2 The majority of requests for information are received electronically. The few instances where a paper document is received within the County, the details are then scanned and forwarded to the Registration Services Manager electronically.
- A7.3 Assurance was given by the Customer Services Manager that the Data held on the Civica Computer system is adequately secure. The information held on the Civica system is held for three years after the date of the last communication, then the system is cleared and the information wiped off.

### A8 FOI - Complaints

- A8.1 When complaints are received they are independently reviewed by the Information Governance Manager (IGM) who is based in County Hall. The process is that the person reviewing a complaint must not have been involved in processing the original request. A separation of duties was satisfactorily noted.
- A8.2 Reviews are carried out under the guidance laid down in Section 45 of Part 1 of the Freedom of Information Act 2000.
- A8.3 In discussion with the IGM it was established that 18 reviews have been carried out between the start of January 2013 and early December 2013. The IGM maintains a detailed spreadsheet of all reviews both current and completed. The spreadsheet satisfactorily includes all relevant information.
- A8.4 On examination of the reasons for these reviews, at the audit visit it was identified that 12 of the 18 reviews were carried out due to the fact that the customer had made a complaint because the information requested was not provided within the time limitations. The result being that as well as investigating the reason for the complaint, the IGM also has to obtain the original information to satisfy the original information requests.

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- A8.5 The first procedure that the IGM carries out is to draw up a timeline of the original complaint. Several timeline listings were reviewed at the audit; one included a listing of 45 items of correspondence.
- A8.6 Information and statistics relating to all Freedom of Information requests is obtained by the IGM and reported at regular meetings of the Corporate Information Governance Group (CIGG) which includes the Directors and Heads of Service.
- A8.7 The Information Commissioner's Office (ICO) carried out an audit of the Council's Data Protection Procedures and the draft report was issued on 4<sup>th</sup> December 2013. The Detailed Findings and Action Plan included in the draft report identified the following two areas for comment and action: -

### 1) Training and Awareness

The provision and monitoring of staff data protection training and the awareness of data protection requirements relating to their roles and responsibilities. RISK = If staff do not receive appropriate data protection training, in accordance with their role, there is a risk that personal data will not be processed in accordance with the DPA resulting in regulatory action and /or reputational damage to the organisation.

### 2) Records Management

The processes in place for managing both electronic and manual records containing personal data.

This will include controls in place to monitor the creation, maintenance, storage, movement, retention and destruction of personal data records. RISK = In the absence of appropriate records management processes, there is a risk that records may not be processed in compliance with the DPA resulting in regulatory action by the ICO, reputational damage to the data controller and/or damage and distress to individuals.

### A9 FOI - Awareness

- A9.1 At the opening meeting it was acknowledged that only a limited number of Powys members of staff are well versed in procedures, but with so many staff with new responsibilities there is a need to be made more aware of what is required. No FOI awareness training has been carried out other than the training given to Committee Members by the former Records and Compliance Manager several years ago. It is understood that there are e-learning courses available for staff to follow on "Freedom of Information" and also the "Data Protection Act".

### A10 FOI – Non-Compliance

One instance of a non-compliance occurred when a request was received by the Insurance Department. The Insurance Department stated that the requested information was not available. The requestor made an FOI request which was received by the former Records and Compliance Manager who refused to provide the information. The matter was taken further and a meeting was held in Ddole Road involving the Accountancy Manager, the Local Environment Strategy Manager, the Insurance Administration Officer and the Registration Services Manager when the matter was resolved resulting in the information

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being forwarded to the requestor. No other instances of non-compliance were highlighted at the audit review.

### A11 FOI - Training

- A11.1 As previously stated no face to face FOI awareness training or other training has been given to members of staff since the previous audit.
- A11.2 The staff working within the Information Management department have undertaken e-learning training produced by the company "Act Now" using their webinar modules. A record is maintained by the Registration Services Manager of who undertook the training and when it took place.
- A11.3 "Act Now" is to hold a course on 31<sup>st</sup> December 2013 entitled "Copyright Law" which has been reserved for the Registration Services Manager to undertake. This did not take place because it was postponed by Act Now – the course is to be re-advertised when available
- A11.4 At the opening meeting with the Registration Services Manager it was explained that a leaflet has been provided and training has been carried out since this audit. A copy of the leaflet was provided that is currently used for staff induction training. It was noted that this satisfactorily addresses the recommendations from the previous audit review. In addition, posters are placed throughout Powys buildings to advise staff of the need to be aware of when information requests should be forwarded to the Information management Department.

### A12 FOI - Statistics / Reporting

- A12.1 At the opening it was explained that FOI statistics are reported in two areas. It reported monthly by the CSM at the SMT for the Director for Change & Governance and the Corporate Information Governance Group are presented with FOI information by the Information Governance Manager. Copies of minutes / agendas of the CIGG (Corporate Information Governance Group) were seen to confirm details at the audit review.
- A12.2 In the past year 779 FOI, 46 DPA and 97 EIR information requests have been received. In August 2013 77 FOI, 3 DPA and 16 EIR information requests had been received.
- A12.3 As of 19/11/2013 the Civica system was examined and the following information was seen on record: -  
DPA requests recorded = 32  
EIR requests recorded = 92  
FOI – closed requests = 304  
FOI open requests = 224

### A.13 FOI - Information Governance Standards and Security Policy

- A13.1 The one new area facing the Department is the "Data Sets" issue. Since 1<sup>st</sup> September 2013 the training company "Act Now" have already introduced a training module to cover this in the form of a one hour webinar training session which cost approximately £30. Six Officers undertook this training on 16<sup>th</sup> September 2013.

[REDACTED]

[illegible]

## APPENDIX B

## B PREVIOUS AUDIT REPORTS

Previously, audits of "Freedom of Information" [REDACTED] were carried out separately. The Freedom of Information report was issued on 25<sup>th</sup> September 2008 that included two recommendations [REDACTED]

The recommendations were as follows: -

## B1 Freedom of Information

**B1.1** The two recommendations following the 2008 audit of FOI were discussed.

### 8.1 Further FOI awareness training within the authority.

**Recommendation = Make available FOI awareness training courses and the induction leaflet. Addressed**

**8.2 Refused requests were not always provided with details of how to contact the Information Commissioner.**