

ARGYLL & BUTE COUNCIL

Internal Audit Section

INTERNAL AUDIT REPORT

CUSTOMER DEPARTMENT	CUSTOMER SERVICES
AUDIT DESCRIPTION	RISK BASED AUDIT
AUDIT TITLE	Freedom of Information Requests
AUDIT DATE	April 2016

2016/2017



1. BACKGROUND

This report has been prepared as a result of the Internal Audit review of Freedom of Information (FOI) requests within Customer Services, Governance and Law as part of the 2016-17 Internal Audit programme.

The Freedom of Information (Scotland) Act 2002 (The Act) came into force on the 1st of January 2005 and gives everyone a legal right to request information held by a Scottish Public Authority. The Act aims to increase openness and accountability across the public sector by ensuring that individuals have the right to access information held by Scottish Public Authorities. Any recorded information contained in all paper records (including staff notebooks), electronic records, microfiche audio and visual material, which cannot otherwise be withheld under the exemptions contained in the legislation, can be requested.

The Act requires responses to be issued within 20 working days of receipt of the request and designated contacts have been identified across the various services of the Council to ensure that all requests are dealt with appropriately and within the statutory timescale.

2. AUDIT SCOPE AND OBJECTIVES

The main objective of the audit was to review key controls to capture and respond to Freedom of Information requests across all departments as per timeframe and legislative requirements.

Control objectives included:

Authority:	The organisation has established an FOI access to information policy and responsibility for FOI has been formally assigned;
Occurrence:	Filing and recording systems (including electronic records) enable information to be easily located;
Completeness:	Requests are promptly transferred to the appropriate Service for action and procedures ensure that requests are actioned;
Measurement:	Procedures ensure information is regularly reviewed for accuracy and that it is up to date. Procedures are in place to record performance;
Timeliness:	Procedures ensure that requests are dealt with within the statutory timescales;
Regularity:	Policies and procedures have been established to protect assets from unauthorised access.

3. RISKS CONSIDERED

Failure to comply with the Freedom of Information legislation;
Requested information is not provided;
Excessive costs are incurred in dealing with FOI requests;
The organisation does not comply with statutory timescales.

4. AUDIT OPINION

The level of assurance given for this report is substantial.

Level of Assurance	Reason for the level of Assurance given
High	High Assurance: Internal Control, Governance and the management of risk are at a high standard with only marginal elements of residual risk identified, which are either being accepted or dealt with. A sound system of control is in place designed to achieve the system objectives and the controls are being consistently applied.
Substantial	Internal Control, Governance and management of risk is sound, however, there are minor areas of weakness which put some system objectives at risk and where specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale
Reasonable	Internal Control, Governance and management of risk are broadly reliable, however although not displaying a general trend there are a number of areas of concern which have been identified where elements of residual risk or weakness with some of the controls may put some of the system objectives at risk.
Limited	Internal Control, Governance and the management of risk are displaying a general trend of unacceptable residual risk above an acceptable level and system objectives are at risk. Weakness must be addressed with a reasonable timescale with management allocating appropriate resources to the issues raised.
No Assurance	Internal Control, Governance and management of risk is poor, significant residual risk exists and/or significant non-compliance with basic controls leaves the system open to error, loss or abuse. Residual risk must be addressed immediately with management allocating appropriate resources to the issues.

This framework for internal audit ratings has been developed and agreed with Council management for prioritising internal audit findings according to their relative significance depending on their impact to the process. The individual internal audit findings contained in this report have been discussed and rated with management.

A system of grading audit findings, which have resulted in an action, has been adopted in order that the significance of the findings can be ascertained. Each finding is classified as High, Medium or Low. The definitions of each classification are set out below:-

High - major observations on high level controls and other important internal controls. Significant matters relating to factors critical to the success of the objectives of the system. The weakness may therefore give rise to loss or error;

Medium - observations on less important internal controls, improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system and items which could be significant in the future. The weakness is not necessarily great, but the risk of error would be significantly reduced if it were rectified;

Low - minor recommendations to improve the efficiency and effectiveness of controls, one-off items subsequently corrected. The weakness does not appear to affect the ability of the system to meet its objectives in any significant way.

5. FINDINGS

The following findings were generated by the audit:

- 5.1 The organisation has established FOI policies and procedures which were available for review. Information relating to FOI and how to make an FOI request is readily available on the Council website. Information for staff, including details of the Service FOI contacts, is available on the HUB; although the procedure document requires to be reviewed as the Service FOI representative contact details were out of date.
- 5.2 Responsibilities for FOI have been formally assigned. The Governance and Risk Manager has been identified as the responsible Officer for compliance with FOI across the authority. The Risk Management Assistant has been assigned formal responsibility for the co-ordination and administration of FOI requests. FOI Service contacts have been identified to co-ordinate responses from Services.
- 5.3 Filing and recording systems enable information to be easily accessed; all FOI requests are logged on Axlr8 database system. All Service contacts have access to Axlr8 and it was found that FOI requests received directly by the Service were logged

allowing a complete record of FOI requests, tracking and reporting. Axlr8 records the date the FOI is received and automatically calculates dates by which responses are due. The database tracking system is used to monitor performance against timescales through a variety of reporting tools.

- 5.4 It was found that requests are promptly transferred to the appropriate Service for action and procedures ensure that requests are actioned where possible within the legislative timeframe. There is a dedicated email address for FOI requests and a link to this is available on the Councils' website. It was found that the 'inbox' for this email address is checked on regular basis and of the records reviewed it was found that requests were being forwarded to Service contacts in a timely manner.
- 5.5 Procedures support the timely actioning of FOI requests within required timeframes, however it was noted that not all Services met the agreed legislative requirements. It was found that Service FOI representatives sent regular reminders to managers responsible for replying to requests and where appropriate escalated non-compliance to Line Management.
- 5.6 It was found that procedures are in place to record performance. Monthly reports are supplied to Executive Directors/Heads of Service and Service FOI representatives. The Council can show performance against timescale of 93% for the last 4 years. Details are provided below:

	2013	2014	2015	2016
Total Number of Requests Received	1073	1211	1332	1323
Total Number of Requests Responded to within 20 Days	983	1136	1242	1223
Percentage Return	92%	94%	93%	92%

- 5.7 Although the Council consistently achieve an average response of 93% the individual Departmental performance varies. The table below details performance for Departments over the previous 3 year period:

	2013	2014	2015
	%	%	%
Customer & Support	100	100	100
Children & Families	100	100	100
Adult Care	100	99	100
Community and Culture	100	93	97
Improvement & HR	100	85	97
Facility	95	100	100
Governance & Law	95	97	97
Education	92	97	93
Development & Strategic Transportation	84	81	78
Roads & Amenities	74	77	83
Planning & Regulatory	74	87	80

5.8 Performance varies across departments with Development & Infrastructure showing below average return rate. It was noted that as at 28th April there were 3 responses open in excess to the 20 day legislative requirement (2 at 46 days and one at 53 days).

5.9 Exemptions can be applied for various reasons. A total of 1,332 FOI requests were made in 2015 with exemptions being applied as detailed below:

Total - Information not held	124
Total - Information otherwise accessible	44
Total - Excessive cost of compliance	10
Total - Prejudice to effective conduct of public affairs	10
Total - Commercial interests and the economy	6
Total - Personal information	19
Total - Information intended for future publication	1
Total - Confidentiality	6
Total - Prohibition on disclosure	1

- 5.10 A sample of exemptions across the categories was undertaken and it was found that there are processes in place to ensure reasonableness of application of the exemption categories.
- 5.11 The total number of reviews requested during 2015 was 46 and the number of appeals to the Information Commissioners Office was one. The appeal to the Information Commissioners Office was upheld in favour of the applicant on technical grounds as it ran over time scale and was undertaken as an FOI request instead of an Environmental Information Request.
- 5.12 It was found that the Governance Unit prepares reports for the DMT's and SMT and on an annual basis to the Executive and to the Audit Committee in the Annual Governance Statement.
- 5.13 FOI performance information is recorded on Pyramid on a quarterly basis; detailed by department.
- 5.14 Procedures have been established to ensure that FOI requests are dealt with within the statutory timescale of 20 working days. It was found that the Central Governance team monitor and report on performance which includes a process where alerts are sent to Service representatives after 10 and 15 working days.
- 5.15 Procedures have been established to protect information assets from unauthorised access. All Axlr8 users are provided with a user name and password. It was found that the system does not prompt users to change their password.

CONCLUSION

This audit has provided a Substantial level of assurance. General control areas displayed little residual risk however one Service identified showed an unacceptable risk in relation to response times for FOI requests which must be addressed within a reasonable timescale. There were a number of recommendations for improvement identified as part of the audit and these are set out in Appendix 1 and Appendix 2. There is one high and one medium recommendation set out in Appendix 1 which will be reported to the Audit Committee. There was one low recommendation which is not reported to the Audit Committee. Appendices 1 & 2 set out the action management have agreed to take as a result of the recommendations, the persons responsible for the action and the target date for completion of the action. Progress with implementation of actions will be monitored by Internal Audit and reported to management and the Audit Committee.

Thanks are due to the Governance and Law staff and management for their co-operation and assistance during the Audit and the preparation of the report and action plan.

APPENDIX 1

ACTION PLAN

Findings	Risk Impact	Rating	Agreed Action	Responsible person agreed implementation date
1. Departmental Performance		High/ Medium or Low		
Departmental performance varies. Ranging from an average compliance rate of 100% within Children & Families and 78% within Roads and Amenities.	Failure to comply with FOI legislation leading to reputational damage.	High	To obtain an FOI performance and resourcing agreement from each Head of Service within Development and Infrastructure Services; and in turn demonstrate sustained improvement in FOI response timescales; initially review evidence for FQ2 2016/17.	Performance and Business Manager, Development and Infrastructure Services 31 October 2016
2. Security		High/ Medium or Low		
The database system (Axlr8) does not prompt users to change their password.	Failure to regularly change passwords may lead to breaches in security and loss of data.	Medium	All users of system will be advised of requirement to change password every 3 months and confirm to Governance Unit that they have done so.	Governance and Risk Manager 30 June 2016



Contact Details

Name Moira Weatherstone

Address Whitegates, Lochgilphead, Argyll, PA31 8SY

Telephone 01546 604394

Email moira.weatherstone@argyll-bute.gov.uk

www.argyll-bute.gov.uk

Argyll & Bute – Realising our potential together

