Information Governance Management

Annual Report 2023

Senior Information Risk Owner

April 2022 - March 2023

1 Introduction

1.1 The Council's Audit, Risk and Scrutiny Committee agreed the Council's revised and updated Information Governance Management & Reporting Framework in September 2016; as part of this the Committee agreed to receive an annual report in relation to the Council's information governance assurance.

1.2 This report collates, analyses and monitors the Council's performance in relation to freedom of information, data protection and information security, to give assurance that trends, issues, incidents, and breaches are dealt with appropriately as they arise.

1.3 Ensuring the proper use and governance of the Council's information and data is an ongoing activity. New and changing legislation, systems, staff, and ways of doing business, as well as new and emerging cyber threats, all shape and change the environment within which the Council operates in relation to effective use and governance of its information and data.

1.4 Keeping up means a careful balancing between the requirement to monitor and be adaptable to our changing environment, and the requirement to agree and implement assurance improvements over the medium term.

1.5 To this end, actions to improve assurance in the medium term are identified, actioned and monitored through the Information Governance and Cyber Security risks on the Corporate Risk Register; regular updates on which are reported separately to the Council's Audit, Risk & Scrutiny Committee.

1.6 The Council's Information Governance arrangements were subject to Internal Audit, reported in February 2020. The objective of the audit was to provide assurance that the Council has adequate controls in place to mitigate the risks identified in the Corporate Risk Register and that these controls are operating as expected. The audit found that comprehensive and clear policies, procedures and mandatory training are in place and that corporate risk and related controls are being monitored by the Information Governance Group, chaired by the Council's Senior Information Risk Owner, with exception reporting to Corporate Management Team. Information Governance controls were found to be comprehensive and control assessments well-supported.

1.7 The National Records of Scotland, Public Records (Scotland) Act (PRSA) 2011 Assessment Team, assessed the Council's annual update of its arrangements under the Act in May 2020. The Assessment Team found that the Council continues to take its statutory obligations seriously and maintains the required records management arrangements in full compliance with the Act.

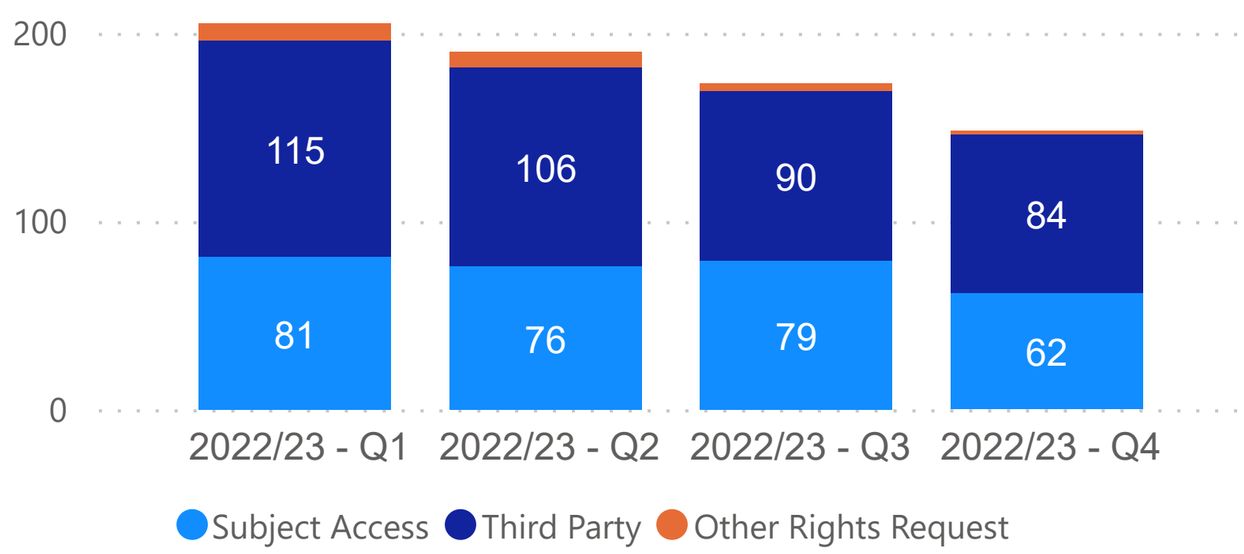
2. Information Governance Performance Information April 2022 - March 2023

2.1 Data Protection Rights Requests

Fig 1: Annual number of requests received

Type of Request	2021/22	2022/23
Subject Access	258	298
Third Party	327	395
Other Rights Request	17	23

Fig 2: Requests received in the 12 month to end March 2023



Data Protection Rights Requests

Data protection law gives people certain rights about their data, including the right to access their data.

Third Party Requests

Other organisations (for example, Police Scotland, or the Care Inspectorate) can also request a customer's personal data under certain circumstances.

Other Rights Requests

In certain circumstances individuals have other rights around their data: including the right to object, to erasure, to restrict processing and to data portability.

Fig 3: Corporate compliance with timescales for requests

Type of Request	2021/22	2022/23
Subject Access	77%	68%
Third Party	84%	83%
Other Rights Request	88%	91%

Timescales for responding

The statutory timescales for responding to data protection requests is between 30 and 90 days, depending on the complexity of the information being requested. The Council's service standards for responding to Subject Access Requests (SARs) within statutory timescales is 80% of all non complex SARs within 1 month of receipt and 70% of all complex SARs within 3 months of receipt. For other Rights Requests the service standard is 100% within 1 month of receipt.

There are no statutory timescales for responding to third party requests for personal data.

Commentary

In the last year, improvement has been noted in the handling of SARs within some service areas as a result of targeted training and changes to internal processes, but performance remains below target. Requests relating to care experienced files continues to be an area where it is challenging to meet response deadlines. This is due to the specialism required to deal with such requests. A review of the associated procedures and roles/responsibilities across the teams involved is being undertaken and a plan identified to seek improvement and ensure a better experience for our customers. There has been an increase in third party requests and analysis into the reason for this has been undertaken but there are no evident trends.

2.2 Data Protection Breaches

Fig 4: Annual number of reported data breaches

Year	Data Protection Breaches	Near Misses	Reports to the ICO
2021/22	199	20	4
2022/23	215	33	4

Data Protection Breaches

All information security incidents should be reported. The action taken will depend on the nature of the incident or breach. Incidents will either be classified as:

- A data protection breach
- Not a data protection breach
- Not a data protection breach but a near miss

Where a breach is likely to pose a risk to the rights and freedoms of affected individuals then the Council must also notify the Information Commissioner's Office (ICO).

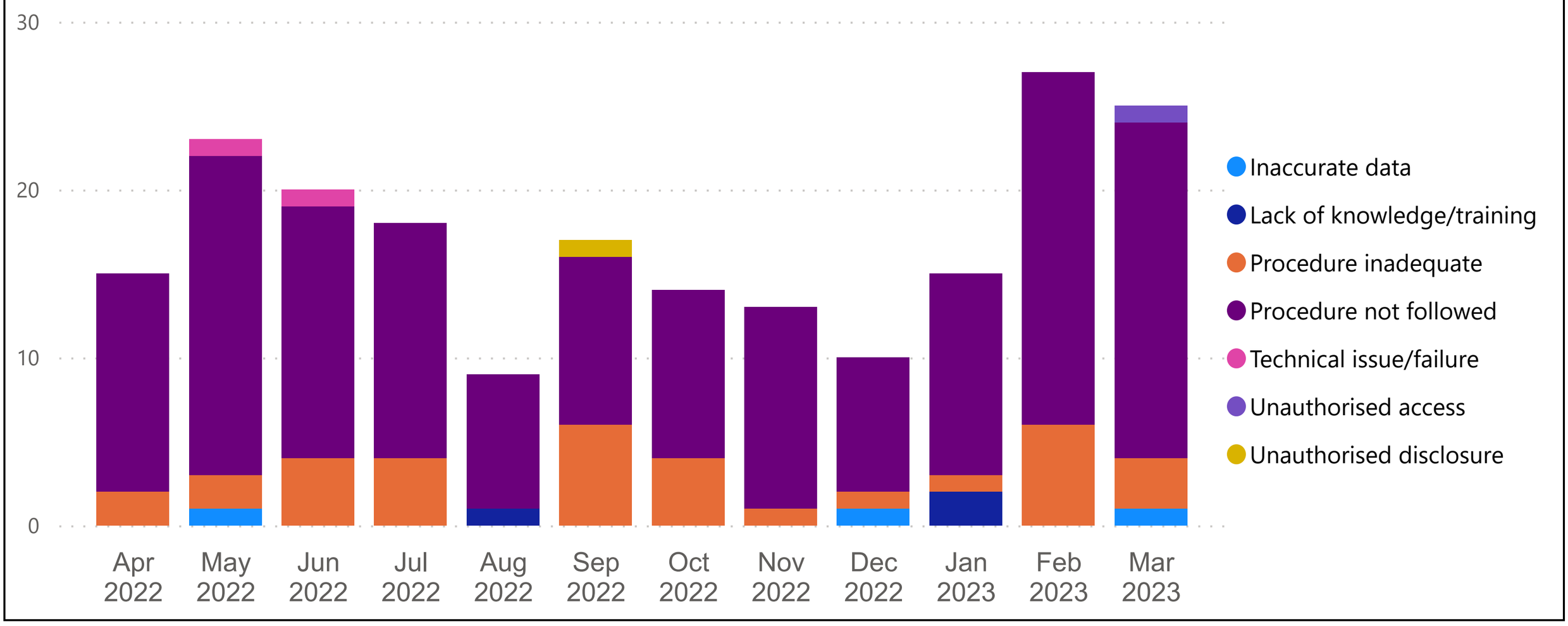
Commentary on number and type of breaches

There has been an increase in reported data protection breaches this year. The figures indicate that there is a strong organisational awareness of what constitutes a breach and how to report one. The number of reported breaches remains consistent with comparable organisations based on what we know about data protection breach trends across the UK and in particular, across local government. The strong trend is that reported numbers of data protection breaches has risen year on year since GDPR came into force in May 2018, and therefore the trend of increased reported data protection breaches at the Council is consistent with that.

Not following existing procedures continues to be the main root cause of incidents. As part of incident handling, we always look at any underlying factors which may have contributed to staff not following procedures and recommend actions to reduce the likelihood of recurrence. The Council has a baseline of controls in place which include mandatory training for all staff, regular communications in the form of the Data Protection blog and targeted support where necessary.

Please note change to organisation structure from November 2022 at Figure 6.

Figure 5: Breaches by root cause in 12 months to end of March 2023

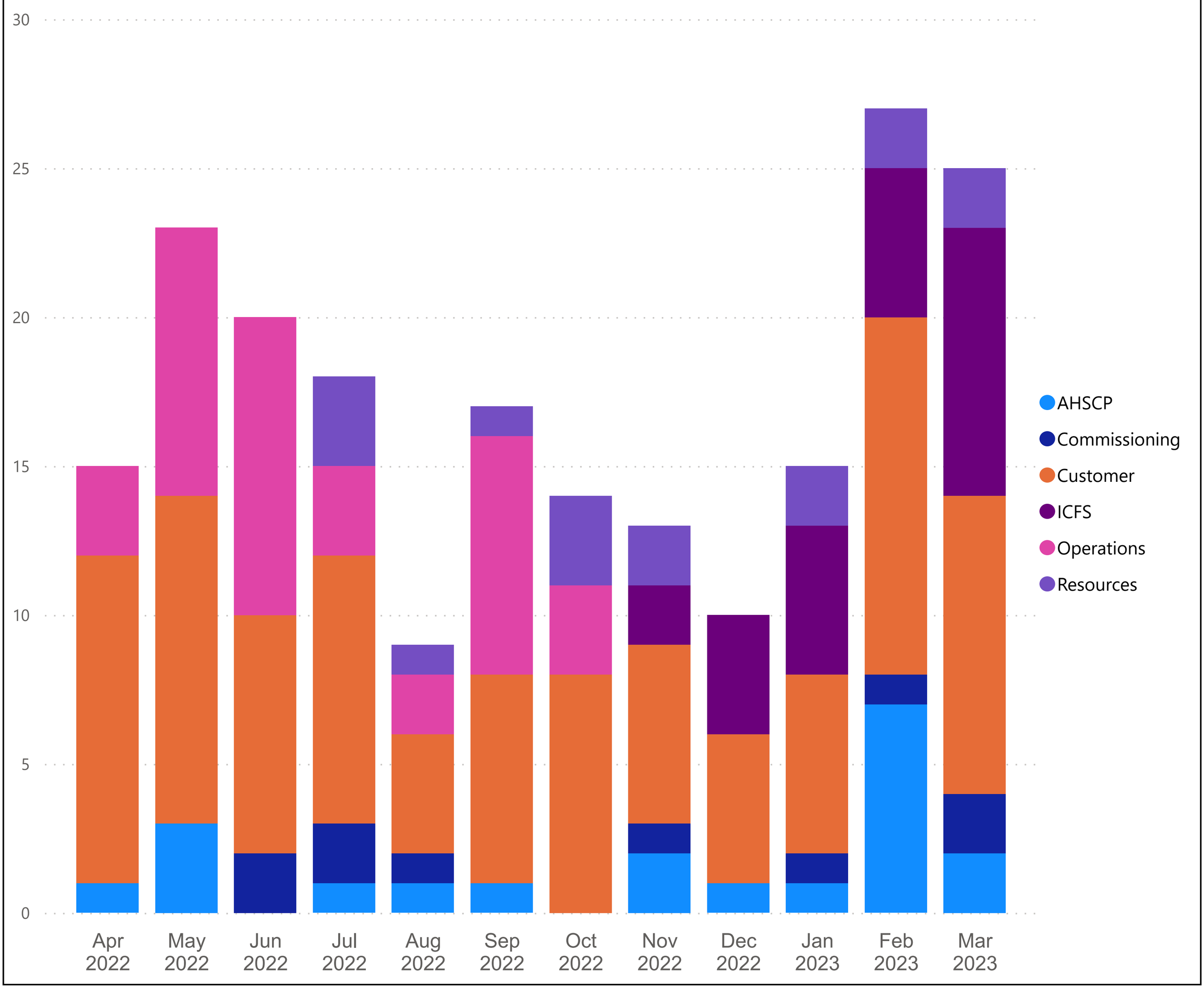


ICO Reported Breaches

The number of data breaches reported to the ICO has remained consistent, in each case the Council has been able to evidence organisational controls sufficient to ensure that the ICO have closed all with no further action being taken.

2.2 Data Protection Breaches (cont'd)

Figure 6: Breaches by Function in 12 months to end March 2023



Lessons Learned

The Council's incident handling framework means that lessons learned are identified for each incident with Service Managers, who take forward any actions identified to strengthen controls and help prevent a re-occurrence. Data protection breach data is regularly considered by Chief Officers through the Council's network of Data Forums. Lessons learned data has been made available via a real-time dashboard within the Managers Portal so it can be used across the organisation for wider learning and improvement.

Please note change to organisational structure from November 2022

2.3 FOISA and EIR Information Requests

Fig 7: Annual number of requests received in the period

Number of requests received	2021/22	2022/23
Number of FOISA Requests	915	1399
Number of EIR Requests	350	251

FOISA and the EIRs in brief

The Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIR) give anyone the right to request information held by the Council, subject to certain exceptions.

Timescales for responding

The Council must respond to any request we receive within 20 working days. The Council's service standard for responding to FOISA and EIR requests within statutory timescales is 85%.

Commentary on requests received

The number of requests has increased during 2022/23. Analysis has highlighted trends in requests such as budget information, electric vehicles, energy transition, renewable energy and bus gates.

Fig 8: Request numbers in 12 months to end March 2023

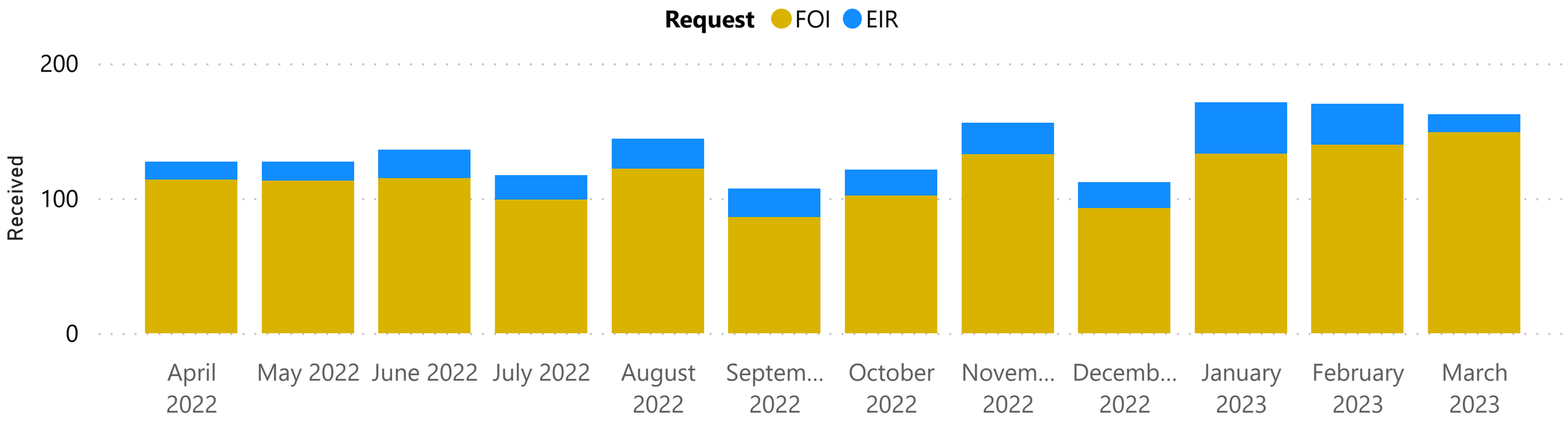


Fig 9: Compliance with timescales in the period

Report_Type	2021/22	2022/23
FOISA Requests	89%	84%
EIR Requests	91%	83%

Commentary on compliance

Compliance is slightly below target. There is scope for improvement and an action plan is in place, including targeted training, more robust management reporting and increased focus on the quality control of responses by the Access to Information Officers to ensure that responses are as helpful and clear as possible.

2.4 FOISA and EIR Request Internal Reviews

Fig 10: Internal Reviews received by type in the period

Type of review received	2021/22	2022/23
No response received	8	18
Unhappy with response	20	31

Internal Reviews in Brief

If the Council does not provide a response to a FOISA or EIR request within 20 working days, or if the requester is unhappy with the response we have given, they can ask the Council to review it.

Where a requester is unhappy with our response, an internal review panel will decide whether or not to uphold the original response or overturn it.

Fig 11: Internal Review Panel outcomes in the period

Type of review outcome	2021/22	2022/23
Response overturned or amended	16	30
Response Upheld	12	19

Commentary on Internal Reviews

All reviews were answered on time over the period and the number of reviews based on lateness has decreased. Where decisions were overturned due to further information being held by the Service, further guidance has been given around undertaking sufficient searches.

2.5 FOISA and EIR Request Appeals

Fig 12: FOISA and EIR Appeals received and closed in the period

Type	2021/22	2022/23
Received	7	2
Closed	3	3

Right to Appeal

Where a requester remains unhappy with a response to a FOISA or EIR request after an internal review, they have the right to appeal to the Scottish Information Commissioner for a decision.

Commentary on Appeals

The high level of outstanding Appeals is related to the amount of time it is taking for OSIC to assign Investigating Officers to cases at present. They are experiencing a large volume of appeals. All ongoing Appeals are with OSIC for action and there is no current action for the Council to take.

2.6 Cyber Incidents

Fig 13: Annual number of internal cyber incidents

Incident Type	2021/22	2022/23
Internal Cyber Incident Attempts Prevented	0	0
Internal Cyber Incidents	0	3

Internal Cyber Incidents

These are risks or threats to the Council's information software, infrastructure or computer network that originate from within the premises or organisation.

Commentary on Internal Cyber Incidents

Three internal cyber incidents were flagged by security defences and quickly resolved. There was no negative impact on the network.

External Cyber Incidents

These are risks or threats to the Council's information software, infrastructure or computer network that originate from outside the premises or from the public (e.g. hackers).

Fig 14: Annual number of external cyber incidents

Incident Type	2021/22	2022/23
External Cyber Incident Attempts Prevented	6,308,039	7,568,417
External Cyber Incidents	1	0

2.7 Lost ID Badges

Fig 15: Annual number of lost ID Badges in the period

Incident Type	2021/22	2022/23
No. lost ID badges	108	137

Lost ID Badges

These are tangible and material risks or threats to the Council's information assets that originate from within the premises or organisation.

Commentary on Lost ID Badges

There has been an increase in the number of lost ID badges in the last 12 months. This increase coincides with more staff returning to office based working and figures comparable with pre COVID.

Fig 16: Lost ID Badges in the period