

ABERDEEN CITY COUNCIL

COMMITTEE	AUDIT & RISK COMMITTEE
DATE	28 TH APRIL 2016
INTERIM DIRECTOR	RICHARD ELLIS
TITLE OF REPORT	DATA PROTECTION REPORTING – OCTOBER-DECEMBER 2015
REPORT NUMBER:	CG/16/041
CHECKLIST RECEIVED	YES

1. PURPOSE OF REPORT

The purpose of this report is to provide to Committee an overview for quarter 3 (October to December 2015) of the Council's activities and statistics in the following areas:

- a) Subject Access Request statistics
- b) Data Breaches
- c) Data Protection training
- d) General update

2. RECOMMENDATION(S)

It is recommended that the Committee note the report.

3. FINANCIAL IMPLICATIONS

There are no financial implications at this time.

4. OTHER IMPLICATIONS

None

5. BACKGROUND/MAIN ISSUES

a) Subject Access Request statistics

A recommendation of the Information Commissioner's Office (ICO) inspection of the Council's compliance with Data Protection legislation was that the number of Subject Access Requests (SARs) and Third

Party Requests (requests for personal information made by third parties) received by the Council be recorded and reported to the appropriate Committee. As previously advised, these figures will be reported to the Audit & Risk Committee on a quarterly basis. The figures for the latest complete quarter, October to December 2015, are detailed below.

In the reporting quarter, Aberdeen City Council received **19** Subject Access Requests and **61** Third Party Requests for personal data held by it (by way of comparison: for April – June 2015, there were 20 SARS and 51 Third Party Requests; and for July – September 2015 there were 18 SARS and 52 Third Party Requests). Third Party requests are usually received by other agencies, such as the Care Inspectorate, Disclosure Scotland, Scottish Social Services Council as well as Police Scotland and other local or central government agencies. The numbers reported evidence that requests of this nature remain consistent.

By Service:

Service:	SAR Numbers	3rd Party Numbers
Corporate Governance	2	0
Education & Children's Services	1	4
Communities, Housing & Infrastructure	4	5
Office of Chief Executive	0	0
Aberdeen City Health and Social Care Partnership	12	52
Sub Total	19	61
Total Received	80	

In the quarter, **80** requests have been received. The requirement of the Data Protection Act 1998 is that requests are responded to within 40 days. **67** requests were responded to within 40 days in the reporting quarter, some **83.75%** of requests responded to (by way of comparison: for April – June 2015 this figure was 91% and for July – September 2015 it was 87%). The reason for the decrease in response times on previous reporting periods is due to there being an increase in SAR's being submitted, particularly in the Education and Children Services' Directorate. Access requests to this Directorate can involve checking and redacting multiple volumes of case files to ensure they meet Data Protection guidelines. The Directorate is currently reviewing its processes to assess whether further improvements can be made.

The Council can charge a fee (maximum of £10), prior to responding to a Subject Access Request. In the reporting period fees were charged in respect of **2** such requests (by way of comparison: for April – June

2015 this figure was 2 and for July – September 2015 it was 0). Each Directorate determines whether it will charge the fee. For example, Education and Children's Services generally do not charge the fee as they encourage transparency in decision making. However, where they receive repeated requests from the same client, they will request that the fee is charged.

b) Data Breaches

In addition to the above, the Council has an established procedure for the recording and reporting of Data Protection breaches. This information is reported to Members in order to provide an overview of the Council's performance in relation to keeping personal data secure.

In the current reporting quarter, the following breaches occurred:

By Service:

Service	Number of Breaches
Aberdeen City Health and Social Care Partnership	1
Communities, Housing & Infrastructure	2
Corporate Governance	0
Education & Children's Services	0
Office of Chief Executive	0
TOTAL	3

By Breach Type:

Type of Breach	Number of Breaches
Human Error	3
Unauthorised Disclosure	0
Unauthorised Access	0
Loss	0
Theft	0
Other	0
TOTAL	3

Comparing the number of Breaches and Breach Type reported within the current reporting period this is a decrease with the reporting period 1 April – June 2015, where there were 8 breaches reported. However, of the breaches reported, “Human Error” still remains the predominant Breach Type with 3 instances recorded for the current reporting period and 6 being recorded in the reporting period 1 April -1 June 2015.

When data breaches are reported to the Head of Legal and Democratic Services, in accordance with the Procedure, these are forwarded to Solicitors in the Governance team, Legal Services who will review the breach, make contact with the Service where necessary to ensure that advice is provided and training offered where this seems appropriate.

Data Protection breaches are dealt with according to the nature and potential seriousness of the breach, with regard being had to ICO guidance. Where there is significant actual or potential detriment as a result of the breach, whether because of the volume of data, its sensitivity or a combination of the two, the Council as Data Controller will normally ‘self-report’ the breach to the ICO.

During the current reporting period, **0** self-reports were made to the ICO.

The regular reports to this Committee will also provide an opportunity to update Members in relation to any significant breaches, including those where the Council has self-reported and/or where there may have been media coverage.

There have been **0** determinations by the ICO of outstanding breach investigations during the reporting period.

A full review of the Aberdeen City Council Corporate Data Protection Policy and Procedures was approved at Committee on 15th September 2015.

A request from members was also made that in future reports we highlight details on late responses to SARs:

- What Service responded late; and
- The extent of the delays.

This has now been implemented.

There were 3 late responses in this period:

Directorate	Type (SAR/3 rd Party)	Response
Social Care & Wellbeing	Subject Access Request	44 days
Social Care & Wellbeing	Subject Access Request	95 days
Social Care & Wellbeing	Subject Access Request	77 days

The three late responses listed above were due to the Directorate Team having an increased workload due to having to take on additional

open SAR cases. That, together with the extensive staff resource in examining multiple voluminous records to remove third party data and make appropriate redactions, has resulted in the above requests being responded to late.

c) Data Protection Training

As previously reported to Committee, a review of induction Data Protection training has been undertaken. Information on overarching Data Protection responsibilities has been included in the content of an e-Induction module which is to be undertaken by all new staff. Further, all staff who have responsibility for the processing of personal information will be required to complete the Data Protection essentials training which has been redesigned to provide an overview of the law and a focus on the responsibilities and expectations on individual staff members.

The launching of these revised training packages is still ongoing and is being co-ordinated by the HR Service. The e-Induction module is due to be launched on 4 April 2016. Further consideration will be given to how completion rates for this training will be monitored.

d) Complaints about Data Handling

A further aspect of the Data Protection responsibilities of Aberdeen City Council is responding to any complaints received from data subjects relating to the manner in which the Council processes their personal data.

The process for handling complaints is two-fold. At the first stage, when the complaint is raised with the Council, the Council will seek to respond to the complainant and resolve the concern. This may be by providing information relating to the manner in which personal data has been processed or by identifying and rectifying any weakness.

The second stage, if a complainant remains dissatisfied, is where a data subject can make a complaint to the ICO. The ICO will invite the Council to detail its handling of the issue under consideration and thereafter investigate such complaints and determine whether or not it is likely that the Council has fulfilled its obligations and duties under the Data Protection Act 1998.

If the Council has failed in its obligations and duties, the ICO can require the Council to take action to mitigate any risk.

In the reporting period, **0** complaints were received by the Council from data subjects. One complaint from the previous quarter is ongoing.

Further, in the reporting period, there have been **0** notifications from the ICO regarding complaints about the Council.

6. IMPACT

None

7. MANAGEMENT OF RISK

Adherence to the Council's policies and procedures for the handling of personal data is essential to the management of the risk associated with the management of information. Strong monitoring of the effectiveness of these arrangements is necessary in order to identify any areas of concern and implement appropriate arrangements to mitigate risk.

8. BACKGROUND PAPERS

None

9. REPORT AUTHOR DETAILS

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