Briefing Note

milton keynes council

Information Governance Report to Scrutiny Management Committee

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Appendices
Appendix A CLT Freedom of Information (FOI) Report Q4
Appendix B Email Policy
Appendix C Draft Retention Template
Appendix D Planning Environmental Regulation (EIR) Process

Purpose

To respond to questions raised by Councillors and residents in Scrutiny Management and Audit committees into the Information Governance (IG) processes in place at Milton Keynes Council. To provide a high-level action plan of work that is planned in the current financial year.

Background

Milton Keynes Council has received over 1,300 requests for information covering all services over the last 12 months. The majority of these requests are handled efficiently and within statutory time scales, with no need for internal review or complaint to the Information Commissioner's Office (ICO). In 2020/21 7 of these cases (at the request of the appellant) went to the ICO for investigation, with 5 of these having some element being upheld; these points related to delays in disclosure and challenge of the application of a technical exemption. Further information is in the FOI report for Q4, in Appendix A.

Concerns relating to the management of FOI requests and records management have been raised regarding high profile planning applications. A very small number of planning applications have driven increased demand for information from the Planning Service, and residents have been exercising their rights through the FOI Act.

Two cases that have prompted this scrutiny have both been through the ICO process, and the Yeomans Drive case has also been through the General Regulatory Chamber (GRC) First Tier Tribunal with a decision and recommendation being made by a qualified judge.

Since the initial handling of both cases circa 2017/2018, the IG team has been strengthened, and the IG Board has been embedded in the organisation with representation from all Services areas engaging in IG issues and decision making. The IG team have been working directly with services, including Planning to ensure that we are compliant with both UK

General Data Protection Regulation (UK GDPR), FOI Act and Environmental Information Regulations (EIR) and any service area legislation with Data Protection related elements. Further training has been provided and will continue to be available, and as an organisation we have been responded to ICO decision notices implementing changes and following directions.

Issue/implications/key considerations

The following addresses several directions in the ICO's decision notices, the GRC tribunal outcome and the issues raised by residents at this Committee.

Responding to issues raised:

We recognise the importance of using the correct regime to manage requests for information; we now treat all requests for information related to Planning under the EIR. This regime assumes a greater amount of disclosure and also assumes and requires information to be published routinely into the public domain.

Publishing of information disclosed through EIR, or FOI is a cornerstone of the transparency agenda:

We have an online portal for making requests for information and for publishing the disclosures - this was not in place at the time of the initial request in both of the Planning cases that have raised issues.

Retention schedules have been previously unclear and inconsistently applied:

We now have a 12-month retention policy on emails. If an email is identified as a record it needs to be kept as a record, as illustrated by this comment from National Records of Scotland:

"…Email needs to be managed just like any other record. Many business transactions and decisions are commonly recorded in email messages, and it is important that these are managed appropriately and captured as records at an appropriate stage.."

- Records regardless of file type need to be saved in a line of business system along with other related information to the case or business process
- Records of any type should be stored in a shared drive appropriately named and dated; Inboxes are not a suitable storage solution for records; they will often lead to a single point of failure

The MKC Email policy is included as Appendix B. Our Organisational Retention Schedule is being reviewed in line with the Institute of Records Management (IRMS) best practice. The IG team are providing enhanced templates to services to ensure that they are capturing appropriate records and applying the correct treatments for storage retention and disposal, and we will be working with Services and assuming a risk-based approach.
The Retention Schedule Template is included as Appendix C.

Feedback on our records management:

We have acknowledged that records management in the Planning Service needed improvement. We have retained all records in relation to the cases, but these have not always been stored in such a way as to make it easy to identify and simple to disclose. We have now identified several processes to help us support the Planning Service that will also capture specific service area information which is sourced from across the organisation.

Together with the Planning Service we have created a check list for the IG team - this is used and kept as a single record for each case. The IG team process is included in Appendix D.

The IG team are also working on a simple guide for customers to understand what information we will be holding about each Planning Application and/or Enforcement case including what correspondence, if any, we have a legislative responsibility to retain under the Town and Country Planning Act (TCPA) and UK GDPR.

Understanding and training:

FOI Liaison Officers have been identified in all services. Colleagues in each service have access to online training on the legislation and information regimes, as well as the FOI business system, with all colleagues undergoing mandatory Data Protection training. Guides on information regimes are available on the intranet and specific support can be provided by the IG team on request.

Proactive steps Milton Keynes Council are taking to create a robust embedded records management system:

Works are in progress with ICT and colleagues across the Council to exploit tools and technology within the Office 365 environment to build an effective, living automated retention schedule. All documents saved on service area drives will have to have an appropriate retention schedule attached to them as well as being labelled to indicate if they contain Personal Identifiable Information (PII) or Sensitive Personal Identifiable Information (SPII) e.g., health or financial information. This project will deliver greater oversight and a robust embedded records management system over the next 14 months. We are building on successful work carried out by other local authorities and financial organisations and will provide best practice principles to our retention and labelling tools.

Activity	Responsible officers/team	Completion by
Refresh of the Councils retention schedule	Lisa Beckett -IG team	Financial year end 2021-22
Roll out of refresh FOI/EIR training	Lisa Beckett- IG team	Financial year end 2021-22
Update FOI/EIR system and legislative user guides	Lisa Beckett- IG team	Financial year end 2021-22
Records management cleansing in preparation	Hazel Lewis & Lisa Beckett ICT team and IG team	Financial year end 2021-22

for Migration to SharePoint		
Migration of records to SharePoint	Hazel Lewis & Lisa Beckett ICT team and IG team	Financial year end 2021-22
DPIA refresh	Lisa Beckett IG team	Financial year end 2021-22
Information sharing agreements refresh.	Lisa Beckett IG team	Financial year end 2021-22

Next steps

SMC to note this paper and provide any feedback.