



THE POLICE AND CRIME COMMISSIONER FOR NORTH
YORKSHIRE AND THE CHIEF CONSTABLE OF NORTH
YORKSHIRE

Freedom of Information

FINAL

Internal audit report: 10.18/19

26 October 2018

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Debrief held	4 October 2018	Internal audit team	Daniel Harris, Head of Internal Audit Angela Ward, Senior Manager Philip Church, Client Manager Lucy Sheridan, Senior Auditor
Draft report issued	19 October 2018	Client sponsor	Interim Chief Executive Officer Chief Constable Director of Evolve Collaborative Legal Services Force Solicitor and Head of Legal Services Police Lawyer (Civil Disclosure)
Responses received	25 October 2018		
Final report issued	26 October 2018	Distribution	Interim Chief Executive Officer Chief Constable Director of Evolve Collaborative Legal Services Force Solicitor and Head of Legal Services Police Lawyer (Civil Disclosure)

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RSM Risk Assurance Services LLP is a limited liability partnership registered in England and Wales no. OC389499 at 6th floor, 25 Farringdon Street, London EC4A 4AB.

1 EXECUTIVE SUMMARY

1.1 Background

A review of freedom of information was undertaken at the Police and Crime Commissioner for North Yorkshire and the Chief Constable of North Yorkshire as part of the approved internal audit periodic plan for 2018 / 2019.

The Freedom of Information Act 2000 provides public access to information held by public authorities. It does this in two ways:

- public authorities are obliged to publish certain information about their activities; and
- members of the public are entitled to request information from public authorities.

The Act covers all recorded information held by a public authority.

Freedom of Information (Fol) requests are received by both the force and the Police and Crime Commissioner but these are logged and responded to by the Civil Disclosure Unit with the Legal Services Team. There are three members of staff trained in responding to Fol requests.

The number of Fol requests received by the Civil Disclosure Unit has increased each year and the introduction of GDPR has seen a further increase in both Fol requests and subject access requests:

Year	Number of Fols
2014/15	1,098
2015/16	1,329
2016/17	1,335
2017/18	1,390
2018/19 (March – Sept)	703

The Information Commissioner's Office (ICO) has set a compliance target for Fol responses within 20 days of 90%, an increase from the target of 85% in April 2017.

CDU compliance within the statutory timescale for 2017/18 was 78%, so far compliance for 2018/19 (July – September) has decreased to 58%. These figures are for Fols received by the force and do not include OPCC Fols.

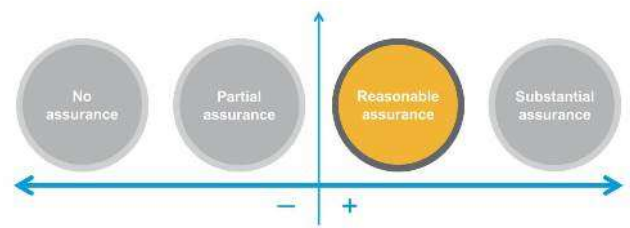
1.2 Conclusion

Overall the review identified that there was a control framework in place to process and respond to Freedom of Information requests including a detailed procedure to be followed and information the force is obliged to publish. However, there are currently gaps in the compliance with this framework leading to non-compliance with the Information Commissioner's Office (ICO) guidelines. As a result of this audit, **one high, two medium and three low** priority management actions were agreed.

The high and medium priority management actions are in relation to non-compliance with the ICO guidelines, roles and responsibilities of the PCC and CDU not being clearly documented and no one being held to account for the underperformance of FoI request compliance.

Internal audit opinion:

Taking account of the issues identified, the Police and Crime Commissioner for North Yorkshire and the Chief Constable of North Yorkshire can take **reasonable assurance** that the controls in place to manage this area are suitably designed and consistently applied. However, we have identified issues that need to be addressed in order to ensure that the control framework is effective in managing the identified area.



1.3 Key findings

We have identified the following well-managed controls in place:

- There is a Freedom of Information (FoI) Procedure in place which was reviewed in January 2018 and details the FoI process. The procedure is available to members of staff via sharepoint and to the public through the force's website.
- FoI requests are logged, receipted by an Administrative Assistant and a Legal Officer then requests information from the relevant department.
- For a sample of 20 FoI requests reviewed where an extension had been applied for a Public Interest Test to be performed the requestor had been notified within the initial 20 days. The exemption being relied upon had also been stated within the extension notification. The Public Interest Test had been applied in line with the ICO guidance.
- Where there was excess cost the requestor was contacted to notify them the FoI was not going to be answered. The time taken to respond to the request is calculated to determine the cost of the request in line with the ICO guidance.
- There is a documented internal review process in place. Requestors can ask for an internal review if they are not happy with the response to their request. Two internal reviews had been completed within the sample selected and on both occasions they had been undertaken by a legal officer independent to the officer responding to the original request.

However, the following findings have resulted in **one high** and **two medium** priority management actions being agreed:

- A sample of 20 Fol requests was selected and reviewed, seven of the requests had been responded to within the 20 day period. The overall compliance for Fol requests received by the force at the end of the second quarter in 2018/19 was 58%. The compliance for the OPCC Fols was 73% for the July – September quarter.
- Requests come to the Civil Disclosure Unit (CDU) both directly and through the Office of the Police and Crime Commissioner. Discussions identified that there are no clear documented roles and responsibilities for each party which may delay in the transfer of information causing non-compliance.
- Fol had been reported to the Police and Crime Panel in February 2018 and was due to be reported in September 2018. Review of Executive Board minutes established that there was no evidence of any internal review and scrutinisation of Fol performance.

We have agreed **three low** priority management actions and further details can be found in section two of this report.

1.4 Additional information to support our conclusion

The following table highlights the number and categories of management actions made. The detailed findings section lists the specific actions agreed with management to implement.

Area	Control design not effective*		Non Compliance with controls*		Agreed actions		
	Low	Medium	High	Low	Medium	High	
Freedom of Information	0	(10)	6	(10)	3	2	1
Total					3	2	1

* Shows the number of controls not adequately designed or not complied with. The number in brackets represents the total number of controls reviewed in this area.

1.5 Additional feedback

A review of the national force Fol statistics showed that the compliance rate across forces throughout the country is varied. When compared to other forces in the North East, the number of Fol requests and the compliance rates were in line with the performance across the region.

2 DETAILED FINDINGS

Categorisation of internal audit findings

Priority	Definition
Low	There is scope for enhancing control or improving efficiency and quality.
Medium	Timely management attention is necessary. This is an internal control risk management issue that could lead to: Financial losses which could affect the effective function of a department, loss of controls or process being audited or possible regulatory scrutiny/reputational damage, negative publicity in local or regional media.
High	Immediate management attention is necessary. This is a serious internal control or risk management issue that may lead to: Substantial losses, violation of corporate strategies, policies or values, regulatory scrutiny, reputational damage, negative publicity in national or international media or adverse regulatory impact, such as loss of operating licences or material fines.

This report has been prepared by exception. Therefore, we have included in this section, only those areas of weakness in control or examples of lapses in control identified from our testing and not the outcome of all internal audit testing undertaken.

Ref	Control	Adequate control design (yes/no)	Controls complied with (yes/no)	Audit findings and implications	Priority	Action for management
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Area: Freedom of Information

1	<p>Fol requests can be made through a number of channels including letter, email and social media.</p> <p>All requests for information are received by both the force and the Office of the Police and Crime Commissioner (OPCC). Fol requests are then passed over to the Civil Disclosure Unit (CDU).</p>	Yes	No	<p>Requests for information are received by both the force and the Office of the Police and Crime Commissioner. An assessment is then made by either CDU or the OPCC as to whether the requests are treated as Business as Usual (BAU) or a Fol request. If the request is considered to be a Fol request then it is transferred to the CDU. If the request is BAU it is dealt with by the department and not required to be recorded on the Fol log.</p> <p>Discussions with members of staff at the OPCC established that on occasions where an Fol request is submitted and the information can be given through the BAU process the requestor is contacted to confirm if they are happy to receive the information in this way. Treating requests for information as BAU is detailed within the Fol procedure, however it may avoid duplication if there is clear method to share information between the OPCC and CDU.</p>	Medium	<p>Roles and responsibilities of the OPCC and the Civil Disclosure Unit will be clearly defined, agreed and documented to avoid confusion and duplication.</p> <p>A meeting will be held between the OPCC and CDU to clarify this.</p> <p>Responsible Officer:</p>
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	Once the requests are received they are logged by the Civil Disclosure Unit (and the Office for the Police and Crime Commissioner, where applicable) on a daily basis.			<p>A sample of 20 Fol requests was selected; six requests were for the OPCC. A review of the transfer of data showed that on five occasions the request was sent over in a timely manner and on the final occasion there was almost a week between the request being received into the OPCC and being sent over to CDU.</p> <p>Discussions with the force and the OPCC established that there had been one occasion recently where an Fol had initially been treated by the OPCC as BAU. After work had been done on this request a decision was made to treat this as Fol and was passed to CDU. The initial request was submitted in May 2018 but this was not passed to CDU until September 2018; therefore, it was not compliant with the 20 day limit. A meeting was held between the Force Solicitor, Police Lawyer (CDU) and the OPCC to discuss their specific roles but there was no documented evidence to show the outcome of this and what the roles are.</p> <table border="1"> <thead> <tr> <th colspan="3">Risk exposure</th> <th colspan="3">Root cause</th> </tr> </thead> <tbody> <tr> <td colspan="3">The Police and Crime Commissioner Fol requests are either being duplicated and/or missed.</td> <td colspan="3">There are no documented roles and responsibilities for the transfer of Fol requests between the OPCC and CDU.</td> </tr> <tr> <th>Probability</th> <th>Financial</th> <th>Reputational</th> <th>Operational</th> <th>Legal</th> <th>Rating</th> </tr> <tr> <td>Probable</td> <td>Negligible</td> <td>Negligible</td> <td>Minor</td> <td>Negligible</td> <td>5:8</td> </tr> </tbody> </table>	Risk exposure			Root cause			The Police and Crime Commissioner Fol requests are either being duplicated and/or missed.			There are no documented roles and responsibilities for the transfer of Fol requests between the OPCC and CDU.			Probability	Financial	Reputational	Operational	Legal	Rating	Probable	Negligible	Negligible	Minor	Negligible	5:8		<p>Police Lawyer (CDU)</p> <p>Implementation Date:</p> <p>31 December 2018</p>
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2	When an Fol has been received and logged on the Fol spreadsheet, the legal officer scheduled to check the Fol log for that day starts the Fol requests off by contacting the	Yes	No	There is a weekly planner in place that allocates a time slot to each of the three legal officers trained in responding to Fol requests. In that period the officer initiates the Fol request by contacting the relevant department for information. The departments have 10 working days to respond to CDU with the information. On four out of our sample of 20 Fol requests the departments took longer than 10 days to respond. The Fol requests are not assigned to specific officer at this stage.	Low	Consideration will be given within CDU as to how Fol requests are allocated and whether there are any more efficient ways to do this e.g. an allocated half day																								

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	<p>relevant department for information.</p> <p>Once the information is received back it is saved in the specific Fol file. The legal officers then select which Fol requests to process and respond to it. This is done on a judgemental basis but prioritised i.e. given to either the oldest request or ones due that day.</p> <p>The request is then assigned to that legal officer in CDU.</p>			<p>Each Fol has a dedicated folder on the legal shared drive and all correspondence and supporting evidence is saved within it. Once the information is received back it is saved in the specific Fol file by the legal officer. If the information is not sufficient to respond to the request, then further information is requested.</p> <p>The legal officers then select which Fol requests to process and respond to. This is done on a priority basis given the date of the request, but priority is given to either the oldest request or ones due that day where a response would make them compliant. The request is then assigned to a legal officer in CDU. The actual response to an Fol request is only undertaken as and when the officers have time to respond to them, there is no allocated time period for doing this.</p> <table border="1"> <thead> <tr> <th colspan="3">Risk exposure</th> <th colspan="3">Root cause</th> </tr> </thead> <tbody> <tr> <td colspan="3">Fol requests will not be responded to within 20 days leading to investigation and possible fines from the ICO.</td> <td colspan="3">Fol requests are carried out by the legal officers along with their other responsibilities and other tasks carry greater risk so are given priority.</td> </tr> <tr> <th>Probability</th> <th>Financial</th> <th>Reputational</th> <th>Operational</th> <th>Legal</th> <th>Rating</th> </tr> <tr> <td>Probable</td> <td>Negligible</td> <td>Negligible</td> <td>Minor</td> <td>Negligible</td> <td>5:8</td> </tr> </tbody> </table>	Risk exposure			Root cause			Fol requests will not be responded to within 20 days leading to investigation and possible fines from the ICO.			Fol requests are carried out by the legal officers along with their other responsibilities and other tasks carry greater risk so are given priority.			Probability	Financial	Reputational	Operational	Legal	Rating	Probable	Negligible	Negligible	Minor	Negligible	5:8		<p>for both setting off and responding to requests.</p> <p>Given the current resourcing within the CDU, often more priority situations arrive so this method of working may not always be achievable.</p> <p>(Position will be initially reviewed early January 2019 with a further review taking place in June 2019)</p> <p>Responsible Officers:</p> <p>Force Solicitor and Head of Legal Services</p> <p>Police Lawyer (Civil Disclosure)</p> <p>Implementation Date:</p> <p>30 June 2019</p>
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3	<p>Fol requests are responded to within 20 days in line with the ICO guidance.</p> <p>Where the response period is exceeded</p>	Yes	No	<p>A sample of 20 Fol requests was selected and reviewed. There were seven requests that had been responded to within 20 days so were compliant and there was one request that was not yet due. The remaining 12 requests were not compliant with the 20-day limit. The oldest request in the sample selected was received in June and had not yet been responded to four months later.</p>	High	<p>Resource to undertake Fol requests will be reviewed in order to increase the compliance rate.</p> <p>A risk based assessment will be undertaken to</p>																								

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	there is a reason for this.			Discussions with CDU established that there are three officers trained to respond to FoI requests, but this is not their sole job. They also carry out numerous other tasks such as court orders, subject access requests, information sharing agreements and GDPR support.		determine whether the cost of increased resource outweighs the risks involved.												
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4	If a requester is not happy with the response they receive to their FoI request they are able to submit an internal review.	Yes	No	<p>There is an internal review process in place which is documented within the FoI procedure.</p> <p>All internal reviews are recorded on a separate tab of the FoI log. There is also a tab to record all complaints made to the ICO. The logs include the dates received and due dates.</p> <p>Of the sample of 20 FoI requests on five occasions an internal review had been requested.</p> <p>On one occasion the internal review had been responded to within 20 days, another had been responded to but exceeded the 20 days and the remaining three had not yet been fully actioned and were not compliant.</p>	Low	<p>The Police Lawyer (CDU) will attend FoI decision making training to enable them to undertake the reviews.</p> <p>Responsible Officer:</p> <p>Police Lawyer (CDU)</p> <p>Implementation Date:</p> <p>30 April 2019</p>												

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	<p>Fol log. There is also a tab to record all complaints made to the ICO.</p> <p>The dates received and due dates of 20 working days are recorded on the log.</p> <p>Each internal is allocated to someone independent of the person responding to the original request. This is usually someone senior; the Police Lawyer.</p>			<p>Good practice from the ICO states that the review will be carried out by someone independent and preferably senior to the person responding to the original request. On both occasions the review had been undertaken by someone independent but not senior. It is acknowledged that the Police Lawyer would usually undertake this task but has only recently been appointed so has not yet started to undertake all their duties.</p> <p>Of the sample of 20 Fol requests, two had been subject to an ICO complaint.</p> <p>On both occasions this was for being late so the ICO did not require a response.</p> <p>We therefore reviewed one that did require a response, and this had been done within the deadline from the ICO.</p> <table border="1"> <thead> <tr> <th colspan="3">Risk exposure</th> <th colspan="3">Root cause</th> </tr> </thead> <tbody> <tr> <td colspan="3">The internal review may not be fully independent if not undertaken by a senior officer.</td> <td colspan="3">The internal review is not undertaken by a senior officer and therefore not in line with best practice guidance from the ICO.</td> </tr> <tr> <th>Probability</th> <th>Financial</th> <th>Reputational</th> <th>Operational</th> <th>Legal</th> <th>Rating</th> </tr> <tr> <td>Probable</td> <td>Negligible</td> <td>Negligible</td> <td>Minor</td> <td>Negligible</td> <td>5:8</td> </tr> </tbody> </table>	Risk exposure			Root cause			The internal review may not be fully independent if not undertaken by a senior officer.			The internal review is not undertaken by a senior officer and therefore not in line with best practice guidance from the ICO.			Probability	Financial	Reputational	Operational	Legal	Rating	Probable	Negligible	Negligible	Minor	Negligible	5:8		
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5	Fol performance statistics are presented as part of the Corporate Health Pack to the Executive Board.	Yes	No	The Executive Board currently receive a Corporate Health Pack which includes performance data for Fol, however this is being redesigned. The last meeting when Fol performance was scrutinised in November 2017, however there was no evidence in the minutes that this had been discussed.	Medium	Fol request compliance will be scrutinised internally. This will be through the Executive Board holding the Head of Collaborative Legal Services to account for																								

Ref	Control	Adequate control design (yes/no)	Controls complied with (yes/no)	Audit findings and implications	Priority	Action for management
	<p>Fol is presented to the Police and Crime Panel on a periodic basis.</p> <p>Information Assurance Board have Fol as a standing item on the agenda and performance indicators in relation to statutory information requests.</p> <p>Action plans are put in place to address under performance.</p>			<p>Discussion with the Head of Legal Services established that data in relation to Fol has not been discussed at Executive Board since the November meeting</p> <p>There is currently a new corporate health pack in draft format, but this does not appear to have an area to include Fol performance figures.</p> <p>A review of the figures show that compliance has dropped from circa 80% to around 50% between February 2018 and September 2018. If Fol performance is not being reviewed internally and no one is held to account there is the risk that compliance levels may drop even further, and this may not be identified in a timely manner.</p> <p>Fol had been reported at the Police and Crime Panel in February 2018. An Fol update report was produced for the meeting in September 2018, but the meeting did not take place as it was not quorate, this will be presented at the next meeting.</p> <p>Statistical Information detailing 'Performance Indicators in Fulfilling Statutory requests' is reported to Information Assurance Board (IAB) on a quarterly basis and Fol is a standing item on the agenda. IAB is Chaired by the Senior Information Risk Owner and consists of members from a range of business areas such as legal/CDU, HR, information management, estates, risk and assurance, ICT, the control room, information security, the data protection officer and professional standards.</p> <p>There had previously been a working group and an action plan to improve the compliance levels. The action plan details both target dates and officers responsible however this has not been updated since 2016/17 (due to the turnover of the Civil Disclosure Police Lawyer) so there was no confirmation that the actions had been completed.</p>		<p>the performance of the unit.</p> <p>Responsible Officers:</p> <p>Force Solicitor and Head of Legal Services</p> <p>Implementation Date:</p> <p>31 January 2019</p>
				<p>Risk exposure</p>		<p>Root cause</p>

Ref	Control	Adequate control design (yes/no)	Controls complied with (yes/no)	Audit findings and implications			Priority	Action for management	
				Risk that the underperformance of FOL requests in not being monitored leading to non-compliance.		FOL data is not reviewed and scrutinised internally by the PCC.			
				Probability	Financial	Reputational	Operational	Legal	Rating
				Probable	Negligible	Negligible	Minor	Negligible	5:8
6	North Yorkshire Police and the Police and Crime Commissioner publish the information detailed in the ICO's definition document on their website. There is a review process in place to ensure the information is kept up to date.	Yes	No	A sample of 10 items from the definitions document was selected and both the force and PCC websites were reviewed to ensure all information was available. On all occasions we identified that information had been published on the websites. The FOL disclosure log was present on the both websites but the NYP log did not have the most recent responses published so was not up to date. Through further review of the policies it was also noted that one of the links did not work for the Environmental and Sustainability Policy. It was not clear as to whether there was a procedure in place across the organisations to ensure all information published is up to date.			Low	A review will be undertaken on an annual / six monthly basis to ensure all up to date information has been published. The departments will then work with Corporate Communications to update any out of date information. Responsible Officer: Police Lawyer (CDU) Implementation Date: 31 January 2019	
				Risk exposure		Root cause			
				Risk of an increase in FOL requests leading to further non-compliance with ICO requirements.		Although a wide range of information is published in the website there is no evidence that this is reviewed to ensure it is kept up to date.			
				Probability	Financial	Reputational	Operational	Legal	Rating
				Probable	Negligible	Negligible	Minor	Negligible	5:8

APPENDIX A: SCOPE

The scope below is a copy of the original document issued.

Scope of the review

The scope was planned to provide assurance on the controls and mitigations in place relating to the following area:

Objectives of the area under review

To review the controls and processes in place to capture and respond to Freedom of Information (Fol) requests.

When planning the audit, the following areas for consideration and limitations were agreed:

Areas for consideration:

- Policies and procedures are in place, reflecting current operating practices.
- Fol requests are acknowledged and responded to in line with agreed response times. Sample testing will be conducted to confirm the timeliness of each stage of the process including:
 - logging of requests including those made via social media;
 - assignment of requests to individuals in CDU;
 - initial response to a requestor within 20 days;
 - where applicable notifying the requestor when a reasonable extension to the 20-day limit; and
 - informing the requestor of the associated cost.
- The internal review process is adhered to where the requestor raises a complaint. This will include selecting a sample of reviews to ensure that they are followed up in a timely manner.
- The reporting of compliance statistics within the organisations, and action plans put in place to address underperformance where applicable. This will include how the Chief Constable is held to account based on performance.
- Information has been published on the force's or Police and Crime Commissioner's websites in accordance with the ICO's definition document for police forces.

Limitations to the scope of the audit assignment:

- We will not comment on the appropriateness of the decisions made by the Civil Disclosure Unit, or confirm exemptions have been used appropriately and in accordance with the act.
- This review will not replicate an inspection performed by the ICO or guarantee future results.
- We will not confirm the organisations have dealt with requests within the prescribed limit.

- We will not comment on any FOI cases or the outcome of any cases.
- Sample testing will be completed from the current financial year.
- We will not confirm full compliance with the act as testing will be completed on a sample basis.
- Our work does not provide absolute assurance that material errors, loss or fraud do not exist.

APPENDIX B: FURTHER INFORMATION

Persons interviewed during the audit:

- Interim Chief Executive
- Office and Volunteer Coordinator
- Force Solicitor and Head of Legal Services
- Police Lawyer
- Administrative Assistant
- Legal Officer
- Legal Officer

Documentation reviewed during the audit:

- Freedom of Information Procedure
- Fol Log
- Public interest tests

FOR FURTHER INFORMATION CONTACT

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