



# THE CHIEF CONSTABLE OF NORTH YORKSHIRE

## Freedom of Information

Internal audit report 3.21/22

Final

9 November 2021

This report is solely for the use of the persons to whom it is addressed.

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# 1. EXECUTIVE SUMMARY

## Why we completed this audit

Our review of North Yorkshire Police's Freedom of Information (Fol) process has been completed to provide assurance that the Force's current processes and procedures in place with regards to the Force's Fol request process is adequate. The objective of the review was to ensure that a robust and organised process is in place to ensure that Fol requests are completed in a timely manner in line with the Fol Act and guidance produced by the National Police Chiefs' Council (NPCC) and the Information Commissioner's Office (ICO).

All Fol requests are completed by legal officers in the Civil Disclosure Unit within North Yorkshire Police. These officers are also responsible for other legal disclosure requests such as Subject Access Requests (SARs), Information Sharing Agreements, Court Orders and other civil disclosure matters. All Fol requests must be completed within 20 working days unless a reasonable extension has been agreed with the requester. Once completed, a Fol request should be published online for the public to view.

The Force has been dealing with Fol backlogs for a number of years which has led the organisation to make a self-referral to the ICO over low compliance rates. This self-referral was made on 12 September 2019 with the Force reporting that 795 Fol requests were overdue with a 27% time compliance rate as of 31 July 2019. To reduce the backlog reported in September 2019, three temporary staff were brought into the Civil Disclosure Unit in 2020 to provide additional assistance. This provided a substantial reduction in the backlog with a further report made to the ICO on 7 October 2020 informing them that only 57 requests were overdue with a 54% time compliance rate. In March 2021 the Fol compliance rate reached 90% however the temporary staff had then reached the end of their fixed term contracts so with the reduction of staff, the backlogs started again.

Despite a temporary improvement, the average compliance rate was still significantly under the ICO's recommended level and would be classified as 'unsatisfactory' under ICO's guidance. As these individuals were temporary staff, they subsequently left CDU at the end of their contracts. One temporary member of staff left in December 2020 and the remaining two left around February 2021. At the end of August 2021, it has been reported that the Force had 459 outstanding requests overdue which is a significant increase on the number reported in the ICO report on 7 October 2020.

The Civil Disclosure Unit have updated their procedures throughout the prior years whilst looking to resolve the backlog in order to find the most effective way to complete Fol requests and in order to assist with the action plan which was created following a recommendation by the ICO. The most recent of these procedures is the introduction of the 'Focus Days' which sees a set day on which staff can focus on completing Fol requests in order to help reduce the backlog. We were informed that as a result of the Focus Days held in September, 119 requests had been completed that month.

## Conclusion

As a result of our review, we have agreed **two high, four medium** and **one low** priority management actions. It should be noted that a number of the management actions agreed are as a result of a lack of adequate resources in the Civil Disclosure Unit. Improvements have been made to the Fol process to help create a more efficient and effective unit, particularly with the introduction of 'Focus Days'.

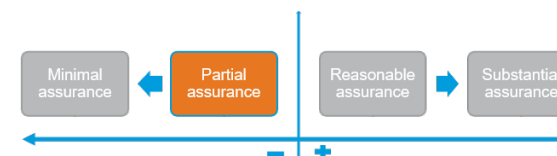
However, the Force had a significant request backlog and low time compliance rate which is currently being monitored by the ICO. The action plan that is required as part of the ICO self-referral report has been uploaded to the Force's website but has not been updated since its creation.

Our review also identified that publication of FoI requests have not been completed in a consistent manner since February 2021 and that there is a backlog of 15 requests that require internal review including four from the previous financial year. We also noted that the internal review has not been detailed within a policy or procedure and that this should be documented for business continuity purposes.

#### Internal audit opinion:

Taking account of the issues identified, the Chief Constable of North Yorkshire can take **partial assurance** that the controls upon which the organisation relies to manage this area are suitably designed, consistently applied or effective.

Action is needed to strengthen the control framework to manage the identified area(s).



## Key findings

**Our audit identified the following exceptions with the Force's established control framework resulting in two high and four medium priority actions being raised:**



The Police Lawyer (Civil Disclosure) is responsible for completing any internal reviews that are made regarding the FoI process. An internal review should be completed within 20 working days after being submitted to the Force. We were provided with a log of all Internal Review (IRs) made in the current and previous financial year (2020-21 and 2021-22). 28 IRs were requested in 2020-21 with only 17 completed within the 20 working day timeframe. 11 IRs have been made in the current financial year with zero having been completed. Three of the 11 IRs were very recent and had not passed 20 working days. The remaining eight IRs had exceeded 20 working days. This backlog is due to several reasons. The previous Police Lawyer has been on long term leave from the end of 2020 to the start of 2022 and as such a new Police Lawyer has had to be identified and trained. This training has not been completed until August 2021 and in the meantime the Force has had to use a lawyer from another area of the business who also has had their own work to complete. As such, there has not been a consistent individual in charge of internal reviews. . There is a risk that if IRs are not completed or not completed within a timely manner, that the Force may be in breach of ICO guidelines and could be seen as lacking transparency. **(High)**



The Force has a significant backlog of incomplete FoI requests which has led to a low compliance rate. During the second half of 2020 in which all four (three full time and one part time) temporary staff members were employed by the Force, we can clearly see an improvement in both the compliance rate and the reduced number of backlog FoI requests. For example, when reviewing the quarterly report provided to the Information Assurance Board, we can see that the compliance rate in Q1 2020-21 was 40% but improved to 76% in Q3 2020-21. This has since decreased to 52% in Q1 2021-22 after the temporary staff members have left. This trend has been discussed during the monthly CDU meetings as the Force has already self-referred to the ICO and, if the compliance rate continues to decline, there is a risk that a fine could be issued in the future, along with some negative publicity and reputational damage. **(High)**



We selected a sample of 20 open FoI requests and 20 closed FoI requests. From the 40 total requests, 23 had not been completed within the 20 working day deadline. For all requests that exceed the 20 working day deadline, an email should be sent to the requester confirming a reasonable extension. In only three of the 23 overdue requests had contact been made to disclose reasons for the delay. Of these three instances, contact had only been made after the requester had chased up the Force and in all three cases, an extension was not noted. Therefore, in all 23 cases, a reasonable extension has not been agreed. There is a risk that if requesters are not informed of an extension to their overdue request or responded to if they chase up their delayed request, the Force may be in breach of the FoI Act and could receive a further complaint by the requester. **(Medium)**



Following the Force's self-referral to the ICO due to low FoI compliance completion rates in 2019, the ICO requested that an action plan be developed outlining how the Force can improve their compliance rate. This action plan was completed on 1 April 2021 and uploaded to the Force's website however we noted that it had not been updated since its creation. There is a risk that if the action plan is not kept up to date and an updated copy is not available online that the Force may be in breach of ICO guidelines and advice. **(Medium)**



As per the FoI Act, the Force should be uploading all requests and responses to its website. Upon review of the Force's website we confirmed that some requests had been uploaded but that this had not been done since June 2021 (despite completing hundreds of requests since). It was explained that there are limited resources available which has reduced the ability of the CDU to both upload and complete FoI requests and therefore completion has been prioritised. This is combined with the introduction of Single Online Home which will be replacing the current website in the middle of October 2021. A decision was made to postpone the posting of requests onto the Force's current website (which will be taken offline once Single Online Home goes live) and instead wait until Single Online Home is live. There is a risk that if the Force do not upload completed FoI requests and responses onto their website, they could be in violation of ICO guidance and may not be proving the appropriate level of transparency required with regards to the FoI Act. **(Medium)**



In order to improve the Force's ability to complete FoI requests in a timely manner, a costed service plan has been submitted to management and is under consideration by the Chief Officer Team to determine whether additional resources can be provided to the CDU to help improve the Force's compliance rate. There is a risk that if the costed service plan is not considered, the CDU will continue to struggle with completing FoI requests in a timely manner and the Force could receive a fine from the ICO. **(Medium)**

For details of the remaining **one low** priority action, please see section two of this report.

#### **Our audit review also identified that the following controls are suitably designed, consistently applied, and are operating effectively:**



The Civil Disclosure Unit (CDU) have a number of policies and procedures in place that outline the current operating practices that should be used for completing a Freedom of Information request. These documents are available to all CDU staff on The Source (the Force's intranet page). CDU staff are also provided with this information when completing training which is required before they start working on Freedom of Information requests.



A procedure has been designed and implemented for recording requests that are received by the Force. All Freedom of Information requests the Force receive are placed onto a spreadsheet tracker to help assign to a legal officer and monitor progress. From our sample of 20 closed samples and 20 open samples we confirmed that 39 (out of the total 40 samples) had been input onto the spreadsheet tracker on either the same day or the following working day. For the remaining sample (a closed request), upon review we determined that an input error had been made and the incorrect date had been put into the spreadsheet. This should have been 3 April however the date recorded was the 2 April.



An automated response system has been created and put in place to provide an automatic response to requesters when they send the Civil Disclosure Unit a Freedom of Information request. We have confirmed this system is in place and can see that the requester is provided with a significant amount of information regarding the process. This system has also been set up for the website *whatdotheyknow.com* in which Freedom of Information requests can also be made and an automated response provided to acknowledge that the Force has received the request.



The CDU reports Fol statistics to a number of different groups both internal and external. A quarterly report is produced and presented at each Information Assurance Board meeting which contains data regarding the Force's compliance statistics as well as the number of requests that have been completed for each month. A similar report is also presented to the CDU Gold Group which is led by the Deputy Chief Constable and is tasked with monitoring the progress of the Civil Disclosure Unit in completing Freedom of Information requests, SARs and other work. Reporting is also provided to the ICO following the Force's self-referral in 2019 and is used to monitor the compliance rate for Fol requests.

## 2. DETAILED FINDINGS AND ACTIONS

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.

| Area: Freedom of Information |  |                                  |                  |           |
|------------------------------|--|----------------------------------|------------------|-----------|
| Control                      | A Fol procedure document has been developed which outlines the current process that should be undertaken when completing a Fol request.  | Assessment:                      |                  |           |
|                              | A process map flowchart outlines the process for completing a Fol request from start to finish   | Design                           |                  | ✓         |
|                              | Fol guidance is also available for staff in the form of a guidance document produced by the CDU and a guidance document produced by the NPCC.  | Compliance                       |                  | ×         |
| Findings / Implications      | <p>A Fol procedure document has been developed by the Force Solicitor and Head of Legal Services to outline the process that must be taken by staff when completing a Fol request. From review of the document we have confirmed that it was up to date and reflected the current processes that are undertaken for Fol requests. The document is scheduled to be reviewed on 31 January 2023. We confirmed that this document is available to all relevant staff on The Source (the Force’s intranet) and is also covered during the training that new staff receive before they can work on Fol requests.</p> <p>A process map flowchart has also been designed to help staff through the process. This has been designed to work alongside the procedure document and is also available to staff on The Source. We have confirmed that the process noted in the flowchart is the same as the process documented in the Fol procedure document and the process that is currently being completed for Fol requests.</p> <p>Two sets of guidance documents have been made available to staff. One has been produced by the NPCC and the other produced by the CDU. Both documents are available to Fol staff with the guidance document produced by the CDU containing a step by step guide on how to start a Fol request including how to log the request, whether to request advice from the NPCC and how to contact a business area for information. From review, we have confirmed this is in line with other documentation such as the Fol procedure document and the process map flowchart.</p> <p>From discussion with the Police Lawyer (Civil Disclosure) and Force Solicitor and Head of Legal Services we confirmed that whilst there is a broad process for internal reviews outlined in the Fol procedure document, there is not a policy or procedure document specifically for this process. There is a risk that if the internal review process is not documented in a policy or procedure, the process may not be completed in the correct and consistent manner.</p> |                                  |                  |           |
| Management Action 1          | The Civil Disclosure Unit will update the Fol procedure document to outline the details of the internal review process and how each internal review should be conducted and undertaken   | Responsible Owner:               | Date:            | Priority: |
|                              |  | Police Lawyer (Civil Disclosure) | 30 November 2021 | Low       |

| Area: Freedom of Information |   |  |                           |                     |
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| Control                      | If a request has exceeded or will exceed the 20 day limit, the CDU will send an email to the requester informing them of the delay and providing an appropriate and reasonable extension.   |  | Assessment:               |                     |
|                              |   |  | Design                    | ✓                   |
|                              |   |  | Compliance                | ×                   |
| Findings / Implications      | From the 20 open samples and 20 closed samples, 23 requests have not been completed within 20 working days. Of the 23 overdue requests, 14 were in the open sample and nine were in the closed sample.  |  |                           |                     |
|                              | From testing we determined that in only three instances out of the 23 overdue requests had contact been made to disclose reasons for the delay. Of these three instances, contact had been made in all three cases only after the requester had chased up the Force. In all three cases, an extension was not noted and instead only acknowledged that the 20-working day deadline had been exceeded and an apology made for this delay. In these three cases we did note that the response emails sent by the Force had been sent in a timely manner (within three working days) after being chased up by the requester. |  |                           |                     |
|                              | In a further three cases, the requester has sent a chase-up email to the CDU however a response has not been made by the CDU. Two of these cases are now closed and one is currently open.  |  |                           |                     |
|                              | There is a risk that if requesters are not informed of an extension to their overdue request or responded to if they chase up their delayed request, the CDU and the Force may be in breach of the Freedom of Information Act and could receive a complaint by the Freedom of Information requester.  |  |                           |                     |
| Management Action 2          | The Force will ensure that chase up emails are responded to in timely manner for all requests that exceed 20 working days.  | Responsible Owner:<br>Police Lawyer (Civil Disclosure) | Date:<br>30 November 2021 | Priority:<br>Medium |
|                              | This requirement will also be included within the Freedom of Information procedure document.  |  |                           |                     |

| Area: Freedom of Information |   |  |             |   |
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| Control                      | The Police Lawyer (Civil Disclosure) completes the internal review process to determine whether the IR is valid and then completes an independent review<br><br>The internal review process for an IR should be completed within 20 working days to be noted as timely however this is good practice and not statutory.<br><br>If a complainant is not happy with the response, they can escalate this to the ICO and the complaint would be uploaded to the Legal Case Management system (IKEN) which the Police Lawyer has access to in order to review the response. |  | Assessment: |   |
|                              |   |  | Design      | ✓ |
|                              |   |  | Compliance  | × |

## Area: Freedom of Information

### Findings / Implications

An internal review is completed by the Police Lawyer (Civil Disclosure Unit) for the Force. As of the week of testing there are currently 15 IRs outstanding that are ready to go through the internal review process.

Once an internal review has been completed, if the complainant is not happy with the response, the next step would be to submit the complaint to the ICO. We have not reviewed this process after this point as the ICO is a separate organisation and not part of the audit scope.

We asked the Police Lawyer what the process was for an internal review in which there was a conflict of interest. We were informed that a separate Force would be asked to complete the internal review however such an instance has not yet occurred, and this process has not been documented.

We were provided with the internal review and complaints logging spreadsheet used by the Force which contains all complaints made regarding Freedom of Information requests for the current and previous financial year.

For the previous financial year (2020/21) 28 IRs have been made. Of these 28 IRs:

- Four are still active and have not been completed. As these were all raised in the prior financial year, they all exceed the 20-working day due date.
- 17 IRs have been completed within the 20 working-day timeframe.
- Seven IRs have been completed but not within 20 working days.

For the current financial year (2021/22) 11 IRs have so far been made (as of the end of September 2021). Of these 11 IRs:

- Three IRs are still active and have recently been received by the Force. As such they have not yet exceeded the 20-working day timeframe.
- The remaining eight IRs are also active but have exceeded the 20-working day timeframe

Overdue response times ranged with one case being overdue one working day with others being well over six months without completion. This trend can be seen in both financial years.

Upon discussion with the Head of Legal Services and the Police Lawyer (Civil Disclosure) (who completes the internal reviews) it was explained that this backlog had been created due to several reasons. The previous Police Lawyer has been on long term leave from the end of 2020 to the start of 2022 and as such a new Police Lawyer has had to be recruited and trained. This training was not completed until August 2021 and in the meantime the Force has had to use a lawyer from another area of the business who also has had their own work to complete. As such, there has not been a consistent individual in charge of internal reviews. It was also explained that a number of IRs (four) have been made by the same individual for similar reasons which has led to increased demand for the internal review process.

There is a risk that if IRs are not completed or completed within a timely manner, that the Force may be in breach of ICO guidelines and could be seen as lacking transparency.



## Area: Freedom of Information

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| <b>Management Action 3</b> | <p>The Police Lawyer (Civil Disclosure) will ensure that the backlog for IRs going through the internal review process is completed and that IRs are completed within a timely manner (20 working days).</p> <p>This requirement will be added to the Freedom of Information procedure document to ensure consistency.</p> | <b>Responsible Owner:</b><br>Police Lawyer (Civil Disclosure) | <b>Date:</b><br>30 November 2021 | <b>Priority:</b><br><b>High</b> |
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## Area: Freedom of Information

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| <b>Control</b>                 | <p>A monthly report detailing CDU statistics (including Fol requests) is produced each month and presented at each CDU Gold Group meeting. A quarterly report is produced and presented at the IAB each quarter which contains compliance statistics for Freedom of Information requests</p> <p>Statistics are provided to the ICO for review following the Force's self-referral.</p> <p>An action plan has been developed by the Force following the self-referral made to the ICO.</p>  | <b>Assessment:</b> |   |
|                                |  | <b>Design</b>      | ✓ |
|                                |  | <b>Compliance</b>  | × |
| <b>Findings / Implications</b> | <p>We have been provided with the three most recent reports that have been presented at the CDU Gold Group meeting. This meeting is led by the Deputy Chief Constable and is used to monitor the progress of the Civil Disclosure Unit and its compliance with Freedom of Information requests, SARs and Information Sharing Agreements. The Group was formed following the self-referral of the Force to the ICO in October 2019 due to poor compliance rates. From review of the three reports (presented at the June, July and August 2021 meetings respectively) we have confirmed that reporting on Fol statistics and compliance rates has been completed and that this is done on a regular basis at each meeting.</p> <p>We have been provided with a copy of the most recent quarterly report which has been presented to the IAB. This covered the first quarter of the 2021-22 financial year and also provides data from previous quarters (going back to the first quarter of the 2020-21 financial year) to show the trends and patterns with regards to demand and compliance rate for the completion of Fol requests. From the report we can clearly see that the Force had a 52% compliance rate for the first quarter of 2020-21 and that 135 Fol requests are currently overdue as of the end of Q1.</p> <p>Upon discussion with the Force Solicitor and Head of Legal Services, we were informed that minutes are not produced for the IAB meeting and an action log is instead published. From review of the action log, we have confirmed that no actions have been raised with regards to the quarterly report however we have not been able to determine whether the report was discussed as this is not recorded as an action.</p> <p>We have been provided with a letter from the ICO to the Chief Constable of North Yorkshire Police dated the 15 October 2020. This is with regards to the self-referral made by the Force in October 2019 and provides an update to the monitoring conducted by the ICO.</p> <p>The letter acknowledges that the Force have been providing the ICO with statistics with regards to the Fol time compliance rate and these numbers have been provided in Annex 1 of the letter.</p> |                    |   |

## Area: Freedom of Information

The letter requests the Force produce an action plan to help rectify the compliance rate and a self-assessment should be completed using the ICO Self-Assessment toolkit. We have been provided with both the Fol action plan developed by the Force in response to the letter and the ICO Self-Assessment results completed by the Force. In both instances it is clear that these have been completed though it should be noted that the action plan seems to have been completed but not updated. Upon discussion with the Force Solicitor and Head of Legal Advice it was confirmed that the action plan was completed on 1 April 2021 and has been made available on the Force website (which we have verified) however the plan has not been updated recently and any updates have not been made available online. There is a risk that if the action plan is not kept up to date and an updated copy is not available online that the Force may be in breach of ICO guidelines and advice.

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| <b>Management Action 4</b> | The CDU will ensure the action plan developed following the Force's self-referral to the ICO is kept up to date with an updated version uploaded to the Force website every quarter. | <b>Responsible Owner:</b><br>Police Lawyer (Civil Disclosure) | <b>Date:</b><br>30 November 2021 | <b>Priority:</b><br>Medium |
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## Area: Freedom of Information

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| <b>Control</b> | All Fol requests and completed response must be uploaded to the Force's website in line with guidance from the ICO. | <b>Assessment:</b>  |
|                |   | <b>Design</b> ✓     |
|                |   | <b>Compliance</b> x |

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| <b>Findings / Implications</b> | <p>The Force Solicitor and Head of Legal Services has confirmed that the Force has not been regularly uploading Freedom of Information requests and responses to the Force website. Upon review of the website, we confirmed that this was the case as the three most recent Freedom of Information cases were from June 2021, March 2021 and February 2021. From further review, we could only locate approximately a dozen Freedom of Information requests and responses that have been uploaded in 2021. This is despite the Force receiving over 500 requests in the current financial year (April 2021-September 2021).</p> <p>There are two main reasons why Fol requests and responses have not been published on the Force's website. The Force Solicitor and Head of Legal Services explained that limited resources have reduced the capacity for the team to input all completed requests and responses onto the website as well as completing Fol requests. This is combined with the introduction of Single Online Home which will be replacing the current website. As Single Online Home (SOH) will be the new website it was decided that uploading Freedom of Information requests and responses would be restarted once SOH goes live in October 2021.</p> <p>There is a risk that if the Force do not upload completed Fol requests and responses onto their website, they could be in violation of ICO guidance and may not be proving the appropriate level of transparency required with regards to the Fol Act.</p> <p>It was noted that any Fol requests submitted via the website "Whatdotheyknow.com" are automatically made public and viewable along with the responses provided by North Yorkshire Police and we have verified that this is the case.</p> |
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## Area: Freedom of Information

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| <b>Management Action 5</b> | The Civil Disclosure Unit will determine whether Freedom of Information (Fol) requests can be uploaded to Single Online Home. Once Single Online Home has gone live in October 2021, the Force will ensure all Fol requests and responses for the 2021/22 financial year are uploaded for the public to view and that all future requests and responses are also uploaded. | <b>Responsible Owner:</b><br>Police Lawyer (Civil Disclosure) | <b>Date:</b><br>31 March 2022 | <b>Priority:</b><br>Medium |
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## Area: Freedom of Information

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| Control                 | When a significant backlog occurs, temporary resources are brought in to help reduce the backlog and assist permanent staff members.   | Assessment: |   |
|                         | Demand is monitored through regular reporting (both monthly and quarterly) and demand is reviewed at CDU Gold Group meetings.  | Design      | ✓ |
|                         |  | Compliance  | × |
| Findings / Implications | <p>We have been informed that the Force are currently experiencing a significant backlog of Freedom of Information requests including many that have exceeded the 20-working day deadline. A similar situation was seen last year (2020) which saw temporary staff being brought in to help manage the backlog and declining compliance rates. Three full time temporary staff members were brought in as well as one part time temporary staff member. Whilst the part time staff member is still with CDU, the three full time temporary staff members finished their contracts in December 2020 (one member of staff) and February 2021 (two members of staff).</p> <p>During the second half of 2020 in which all four (three full time and one part time) temporary staff members were employed by the Force, we can clearly see an improvement in both the compliance rate and the number of backlog Fol requests. For example, when reviewing the quarterly report provided to the Information Assurance Board, we can see that the compliance rate in Q1 2020-21 was 40% but improved to 76% in Q3 2020-21. This has since decreased to 52% in Q1 2021-22 after the temporary staff members have left. This trend has been discussed during the monthly CDU meetings as the Force has already self-referred to the ICO and, if the compliance rate continues to decline, there is a risk that a fine could be issued in the future.</p> <p>The Head of Legal Services confirmed that a costed service plan has been produced and will be presented to the Chief Officer Team on Monday 4 October 2021. This costed service plan contains a request for additional resourcing (staff members) in order to combat the declining compliance rate and growing backlog as well as to reduce the likelihood of further intervention by the ICO.</p> <p>We were informed that the legal officers who are assigned and complete the Fol Requests also have other responsibilities such as completing SARs, Court Orders and Insurance requests to name but a few. As such, it has been difficult to reduce the Fol request backlog and improve the compliance rate whilst also ensuring this does not occur in other areas.</p> <p>There is a risk that if the costed service plan is not considered, the CDU will continue to struggle with completing Fol requests in a timely manner and the Force could receive a fine from the ICO.</p> |             |   |

| Area: Freedom of Information |   |   |                               |                            |
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| <b>Management Action 6</b>   | The costed service plan will be considered by management to determine whether it is appropriate to provide additional resources to help reduce the Freedom of Information backlog and improve the Force's compliance rate | <b>Responsible Owner:</b><br>Head of Legal Services | <b>Date:</b><br>31 March 2022 | <b>Priority:</b><br>Medium |
| <b>Management Action 7</b>   | The CDU will attempt to reduce the Freedom of Information request backlog in order to ensure the compliance rate is appropriate as per ICO guidelines.  | <b>Responsible Owner:</b><br>Head of Legal Services | <b>Date:</b><br>30 June 2022  | <b>Priority:</b><br>High   |

| Area: Freedom of Information   |  |  |                    |   |
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| <b>Control</b>                 | Actions raised in the Freedom of Information review 2018/19 have been addressed during this review. Please see Appendix B for details of the actions.  |  | <b>Assessment:</b> |   |
|                                |  |  | <b>Design</b>      | ✓ |
|                                |  |  | <b>Compliance</b>  | × |
| <b>Findings / Implications</b> | <p>Testing has been undertaken to ensure the management actions raised in the Freedom of Information review 2018/19 have been appropriately implemented by the Force. The following actions have been considered:</p> <ol style="list-style-type: none"> <li><u>Fol – Roles and responsibilities (Medium)</u><br/>The Head of Legal Services has confirmed that the OPFCC now complete their own Freedom of Information requests and as such we have marked this action as superseded.</li> <li><u>Fol – Allocation of Fol requests (Low)</u><br/>The Head of Legal Services and the Police Lawyer (CDU) have explained that numerous procedures have been trialled to determine the most efficient way to allocate requests. The current method is that requests are allocated to Legal Officers each Wednesday for the following week. It was explained that this procedure has been used over others as it allows for the least disruption and the most effective way to complete Fol requests. Other methods which have been trialled include allocating requests each day however it was determined that this was too disruptive and had a negative effect on staff morale. Given this we are marked this action as complete.</li> <li><u>Fol – Resource review (High)</u><br/>The Head of Legal Services confirmed that an assessment did take place as per this action and that subsequently additional temporary resources were allocated to the CDU. However, as these resources have left, the CDU has returned to the same position they were at previously with a large backlog of requests and a low compliance rate. As such, the service plan was submitted to management. We have marked this action as complete.</li> </ol> |  |                    |   |

## Area: Freedom of Information

### 4. Fol – Decision making training (Low)

The current Police Lawyer (CDU) has confirmed that they have undertaken the decision-making training required for Freedom of Information internal reviews and that the prior Police Lawyer (CDU) (who is currently on long-term leave until the start of 2022) has also undertaken this training.

### 5. Fol – Reporting of compliance statistics (Medium)

Whilst reporting to the Executive Board is no longer completed, regular reports are submitted to the IAB which we have verified as part of this audit. The Head of Legal Services noted that they felt the reporting would be more suitable to the IAB rather than the Executive Board and we have confirmed that the current arrangements allow for a more appropriate level of monitoring and scrutiny.

### 6. Fol – Publishing information (Low)

This action has been reviewed as part of the scope and we have confirmed that whilst some information has published, this has not been done in a consistent manner since February 2021.

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|--------------------------|---|
| <b>Management Action</b> | <u>Freedom of Information – Resource review</u><br><i>See management action six</i> |
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|                          |   |
|--------------------------|---|
| <b>Management Action</b> | <u>Freedom of Information – Publishing information</u><br><i>See management action five</i> |
|--------------------------|---|

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## APPENDIX A: CATEGORISATION OF 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 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, reputational damage, negative publicity in national or international media or adverse regulatory impact, such as loss of operating licences or material fines. |

The following table highlights the number and categories of management actions made as a result of this audit.

| Area                   | Control design not effective* |      | Non Compliance with controls* |      | Agreed management actions |          |          |
|------------------------|-------------------------------|------|-------------------------------|------|---------------------------|----------|----------|
|                        |                               |      |                               |      | Low                       | Medium   | High     |
| Freedom of Information | 1                             | (11) | 7**                           | (11) | 1                         | 4        | 2        |
| <b>Total</b>           |                               |      |                               |      | <b>1</b>                  | <b>4</b> | <b>2</b> |

\* 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.

\*\* More than one management action has been raised against one control.

## APPENDIX B: ACTIONS FOLLOWED UP

The below actions were raised in the North Yorkshire Police 2018/19 Freedom of Information review and considered within this review to ensure actions have been appropriately implemented. Testing has been undertaken and management actions raised, where applicable.

| Assignment title   | Management actions  |
|--|---|
| Freedom of Information – Roles and responsibilities                    | Status: <b>This action has been superseded</b><br>Roles and responsibilities of the OPCC and the Civil Disclosure Unit will be clearly defined, agreed and documented to avoid confusion and duplication. A meeting will be held between the OPCC and CDU to clarify this.<br>Priority: <b>Medium</b>   |
| Freedom of Information – Allocation of Freedom of Information requests | Status: <b>This action has been implemented</b><br>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 for both setting off and responding to requests.<br>Given the current resourcing within the CDU, often more priority situations arrive so this method of working may not always be achievable.<br>(Position will be initially reviewed early January 2019 with a further review taking place in June 2019)<br>Priority: <b>Low</b> |
| Freedom of Information – Resource review                               | Status: <b>This action has been implemented</b> Resource to undertake Fol requests will be reviewed in order to increase the compliance rate.<br>A risk based assessment will be undertaken to determine whether the cost of increased resource outweighs the risks involved.<br>This will be reviewed once a response is received from HR.<br>Priority: <b>High</b>  |
| Freedom of Information – Decision making training                      | Status: <b>This action has been implemented</b><br>The Police Lawyer (CDU) will attend Fol decision making training to enable them to undertake the reviews<br>Priority: <b>Low</b>   |
| Freedom of Information – Reporting of compliance statistics            | Status: <b>This action has been implemented</b><br>Fol request compliance will be scrutinised internally. This will be through the Executive Board holding the Head of Collaborative Legal Services to account for the performance of the unit.<br>Priority: <b>Medium</b>  |
| Freedom of Information – Publishing information                        | Status: <b>This action has been partially implemented</b><br>A review will be undertaken on an annual / six monthly basis to ensure all up to date information has been published.<br>The departments will then work with Corporate Communications to update any out of date information.<br>Priority: <b>Low</b>   |

# APPENDIX C: SCOPE

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

## Scope of the review

The internal audit assignment has been scoped to provide assurance on how the Chief Constable of North Yorkshire Police manage the following area.

### Objective of the area under review

To review the controls and processes in place to capture and respond to Freedom of Information (FOI) requests in accordance with legal timeframes.

## Scope of the review

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

### Areas for consideration:

Our review will consider the following:

- Policies and procedures are in place, reflecting current operating practices.
- FOI 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 an IR. 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 organisation, and action plans put in place to address reduced compliance where applicable.
- Information has been published on the Force's website in accordance with the ICO's definition document for police forces.
- The Force has reviewed current demand and this has been aligned to resource levels.
- Actions raised as part of 2018/19 audit have been fully implemented and embedded at the organisation.

**The following limitations apply to the scope of our work:**

- 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 organisation 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 fully 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.

|                                    |                 |
|------------------------------------|-----------------|
| <b>Debrief held</b>                | 6 October 2021  |
| <b>Draft report issued</b>         | 14 October 2021 |
| <b>Revised draft report issued</b> | 2 November 2021 |
| <b>Responses received</b>          | 8 November 2021 |
| <b>Final report issued</b>         | 9 November 2021 |

|                                |  |
|--------------------------------|--|
| <b>Internal audit Contacts</b> | Daniel Harris, Head of Internal Audit<br>Philip Church, Client Manager<br>Mike Gibson, Assistant Manager |
| <b>Client sponsor</b>          | Deputy Chief Constable<br>Force Solicitor and Head of Legal Services                                     |
| <b>Distribution</b>            | Deputy Chief Constable<br>Force Solicitor and Head of Legal Services                                     |

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The matters raised in this report are only those which came to our attention during the course of our review and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Actions for improvements should be assessed by you for their full impact. This report, or our work, should not be taken as a substitute for management's responsibilities for the application of sound commercial practices. We emphasise that the responsibility for a sound system of internal controls rests with management and our work should not be relied upon to identify all strengths and weaknesses that may exist. Neither should our work be relied upon to identify all circumstances of fraud and irregularity should there be any.

Our report is prepared solely for the confidential use of **The Chief Constable of North Yorkshire**, and solely for the purposes set out herein. This report should not therefore be regarded as suitable to be used or relied on by any other party wishing to acquire any rights from RSM UK Risk Assurance Services LLP for any purpose or in any context. Any third party which obtains access to this report or a copy and chooses to rely on it (or any part of it) will do so at its own risk. To the fullest extent permitted by law, RSM UK Risk Assurance Services LLP will accept no responsibility or liability in respect of this report to any other party and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by any person's reliance on representations in this report.

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