

## Background

The team are responsible for the Information Compliance Function across the organisation, this includes dealing with Subject Access Requests, Freedom of Information Requests, Data Protection Impact Assessments, Information Sharing Agreements, Court Orders, Solicitor Requests, Records Management, Annexe C requests, Prevention of Crime Requests, adoption and fostering records and DBS requests. The team leader is the Data Protection Officer for the Council. In accordance with Data Protection Legislation the Data Protection Officer should be provided with sufficient resources to ensure compliance under the legislation.

Our compliance rate for PIRS during 2020/21 was **27%** with 115 cases received totalling 117257 pages or redactions. There are now 62 overdue PIR cases with 85689 pages outstanding, 4 of the cases are still to be sourced

- 2021/22 14 cases overdue and 22179 pages outstanding
- 2020/21 38 cases overdue and 59049 outstanding
- Pre-April 2020 10 cases overdue and 4461 pages outstanding.

During 2020/21 there were 374 Legal Proceedings cases received all of which required sourcing and 175 cases required redacting. The 175 cases contained 91622 pages of redactions. There are now 10 overdue cases with 10520 pages outstanding from Quarter 1 2021/22.

In total for 2020/21 the combined number of PIR and Legal Proceedings cases received requiring redaction totalled 290 and 208879 pages (117257 and 91622 respectively) with 38 PIR cases outstanding containing 59049 pages still to be redacted.

**As of 3<sup>rd</sup> August 2021 there are 72 overdue PIRS and Legal Proceedings cases totalling 96209 pages of outstanding redactions.** This figure is 4300 less than the 100500 outstanding pages previously reported.

In Quarter 2 (July only) 10 PIRs and 7 Legal Proceedings have been logged but no pages have yet been sourced.

The figures continue to leave NCC vulnerable to enforcement action from the ICO as we are well below the required compliance rate of 100%. NCC is 20% below the figure that the ICO threatened enforcement action last time they audited us in 2016.

The two areas where we have significant backlogs are PIR's and Solicitor Requests (including DBS Checks and Court Orders). When the new GDPR came into force in 2018 the way in which cases were categorised changed slightly and this accounts for some of the variations in the numbers of cases being received and the numbers of pages.

The backlog and compliance rate was flagged up at Audit Committee on the 26 March. The Audit Committee noted their concern about the under resourcing of the team. Senior officers were urged to undertake an urgent review of the staffing and finances and the Committee requested assurance that the sustainability of the team and resource would be addressed.

As a result of this 3.3 FTE business causals have been appointed and this DDM seeks to convert their contracts into fixed term 18 month contracts to address the low compliance rates and reduce the risk of enforcement action from the regulator.

## PIR's

PIR's are currently dealt with by 1 x FTE Information Officer Grade G and 3 x Information Officers at grade E and one administrator at D grade. Approximately 80% of PIR's relate to People's directorate. 2 of the 3 of the E posts are funded by the People directorate. However, they also have other duties than redaction including ICSA duties and duties relating to post adoption records. The remainder PIR's are predominantly HR matters.

- 2019/20 142 cases received/ 96 closed in time = 68% - pages for 142 cases 71903
- 2020/21 115 cases received / 31 closed in time = 27% - pages for 115 cases 117257

As can be seen from the figures above that there has been a decline in the number of cases received (or classified) as PIR's but the number of pages per request has increased significantly and the number of pages remains about the same.

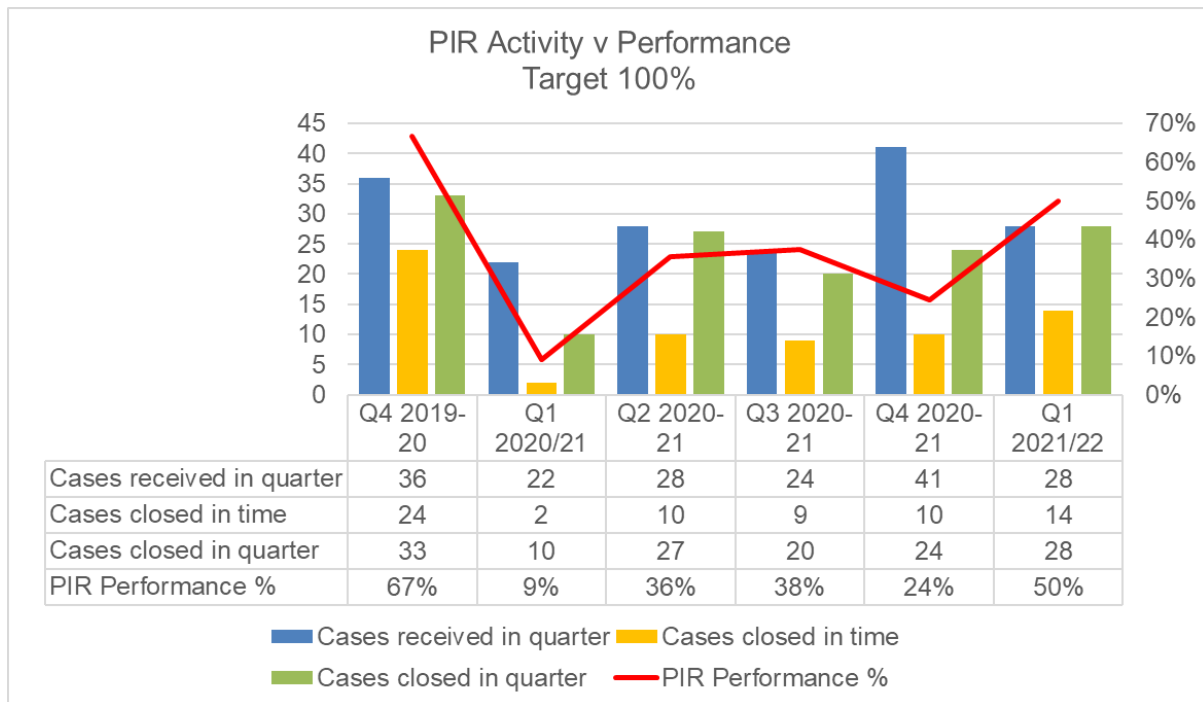
PIR requests are more complicated since the introduction of the GDPR in 2018. There are additional considerations that have increased the complexity and time taken to deal with individual cases. The role of the Information Officers has had to evolve to reflect this. Requestors are more aware of the information they can request and the GDPR introduced new rights

- **Right to request rectification of inaccurate personal data** These rights are generally being exercised by parents on behalf of their children (some of which may have complex/ special educational needs) or adults (some of which may have mental health issues). Senior Information Officers work with Officers in the Peoples directorate to process the rectification requests. These requests often sit aside judicial reviews or complaints to the Local Authority Ombudsman. There may also be a serious harm test to consider in conjunction with various departments in Children and Adults, which brings further complexities and is taking substantial time to deal with.
- **Right to request erasure of your data known as 'the right to be forgotten'** The same is true for these types of requests and many hours can be taken dealing with the service user directly.
- **Right to in certain circumstances to request restriction of processing**
- **Right in certain circumstances to request portability of your data to another provider**
- **Right to object to processing of data in certain circumstances**
- **Right regarding automated decision making including profiling**

Until recently the time and resource implication of the introduction of these new rights under GDPR has not been fully understood. Citizens are increasingly aware of these rights and are exercising them, which is having a significant impact on the work load and capacity of the existing team.

In addition, the serious harm test, introduced under Article 15 of the GDPR, applies where disclosure of the data would likely prejudice the carrying out social work, because it would be likely to cause serious harm to the physical or mental health of the data subject or another individual. Applying the test is complex, time consuming and must be applied correctly to be deemed lawful. This work is undertaken by an Information Officer in consultation with the social work team.

Finally, the lack of appropriate and consistently used case management systems across the organisation makes sourcing information incredibly difficult.



**NB** not all cases received in a quarter are sourced in that quarter. The total pages received and total overdue pages in a quarter will continue to change until all cases have been sourced.

- Qtr 4 Performance - 24% compliance
- 2020/21 Performance – 27% compliance
- 115 received and 31 closed in time, v 81 closed (current & backlog)
- Qtr 1 Performance – 28 received, 50% compliance (2 cases still open)

### Solicitor Requests

Solicitor Requests, DBS checks and Court Orders are currently dealt with by 1FTE grade G Information Officer and 1 FTE Information Officer Grade F on a 12 month fixed term contract, which will expire April 2022. 100% of this work relates to case work/sourcing from children and adults. The Peoples Directorate do not currently make any contribution to this work. They do fund a 2 x FTE Information Officers but these these roles relate specifically to ICSA work and Adoption and Fostering and their work is categorised separately.

- **Solicitor’s requests** – legal proceedings or advice – mostly social care information all of which needs specialist redaction.
- **Disclosure and Barring Service (DBS Requests)** – These requests relate to social care material for the purpose of decision making to include an individual on the disclosure and barring list. These requests were dealt with by the People’s directorate but due to the amount of redaction needed and complaints from the disclosure and barring service over delayed/ lost requests the role has been taken over by the Information Compliance Team. DBS requests relate to very sensitive data.
- **Annex C’s** – police requests involving historical abuse. This information is sourced from liquid logic and other case management systems.

- **Court Orders** – All court orders relate to social care material or adults information in relation to deprivation of liberty cases. The material is required for the purpose of family proceedings or deprivation of liberty cases. All requires specialist reaction.
- **Permission to disclose information to the defence solicitors by the Crown Prosecution Service** - requests received from Crown Prosecution Service in relation to historical abuse criminal proceedings at Crown Court. These require specialist redaction. The rules are based on criminal procedure rules (different to Subject Access Request redaction). The Senior Information Officer liaises directly with a Senior Crown Prosecutor and a criminal barrister. This process is complex and has historically, been carried out by a qualified solicitor although a Senior Information Officer has been trained to do this.

As can be seen from the tables below the number of requests being received has not increased but we can see from the data that the number of pages has increased exponentially. As with PIR requests the nature and complexity has changed over time. A significant proportion of the solicitor information relates to historical social care records which relies on the manual checking of microfiche records and scanned in copies of handwritten notes. There has also been an increase during the pandemic in relation to CPS case work due to an increase in domestic violence and the removal of vulnerable children.

<b>No of cases received</b>				
Functions	2017	2018	2019	2020
PIR Solicitor Requests	4	3	73	75
Court Orders	26	58	47	55
DBS	5	7	18	18
Permissions	22	17	18	15

<b>Pages to be sourced and redacted</b>					
Types of casework	2017	2018	2019	2020	% Increase from 2019
PIR Solicitor Requests	34	230	20077	42554	112% increase
Court Orders	15279	53852	36065	41572	15% increase
DBS	1305	2289	820	3114	280% increase
CPS Permissions (criminal prosecutions of sexual abuse of children)	2227	1177	361	2767	666% increase
Total	18845	57548	57323	90007*	57% increase

<b>2020/21 Casework by Quarter</b>					
No of pages received	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Totals</b>
PIR Solicitor Requests	7168	15574	13533	8324	44599
Court Orders	4177	8630	13883	10981	37671
DBS	88	1838	1141	51	3118
Permissions	1596	0	947	87	2630
Other	0	3440	136	28	3604
Pages to be redacted	13029	29482	29640	19471	91622

The tables above demonstrate the exponential increase in page numbers to be sourced and redacted in this area. As mentioned above the way in which the PIR solicitor requests were categorised changed in 2018 which accounts for the significant increase between 2017 – 2109. Notwithstanding this, it can be shown that there has been a 57% increase in the number of pages to be sourced and redacted since 2019.

It should be noted that the team responded to a corporate ask to support the processing and redaction of 60,000 pages in connection with a connected company and these are not included in the above figures. This was a significant piece of work at short notice and this had a significant impact on the team and on the backlog.

We currently have 3.3 business casuals focussing on the backlog of redactions as set out above. This DDM seeks to make those business casual posts into 18 month fixed term contracts.

Converting the business casual vacancies into fixed term contracts will provide the current business casuals and the service area with a degree of security to enable us to work through the backlog and bring our compliance levels back up to an acceptable level. Redaction is a specialist role and it is important that those undertaking the work can carry it out to the requisite levels, we have already invested in training the business casuals and it would be beneficial to secure their appointments going forward.