



LONDON FIRE BRIGADE

Report title

Information requests (Data protection, Freedom of Information) in 2020/21

Report to	Date
Corporate Services Directorate Board	20 July 2021
Commissioner's Board	8 September 2021
Audit Committee	28 October 2021
London Fire Commissioner	

Report by	Report number
Head of Information Management (Data Protection Officer)	LFC-0587

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If redacting, give reason:

I agree the recommended decision below.

Andy Roe
London Fire Commissioner

This decision was remotely signed
on 28/09/2021

Date

Executive Summary

Update on the number of information requests received by the Brigade under data protection and Freedom of information law in 2020/21, and the Brigade's performance in responding to those requests within statutory timescales. The report also highlight key information access issues, and shows comparative performance with previous years and other members of the GLA group.

Recommended decision(s)

That the London Fire Commissioner receive this report.

Introduction and background

1. This annual report updates the Board on the Brigade's performance in responding to requests for information made under the Freedom of Information Act 20001 (FOIA) and the Data Protection Act 2018 (DPA)/General Data Protection Regulation (GDPR/UK GDPR). The Head of Information Management – based in the ICT Department – is the Brigade's Data Protection Officer as required by the UK GDPR (and set out in the LFC Scheme of Governance).

2. This paper details requests received last year (2020/21) with comparison with earlier years. The report reviews the Brigade's performance in responding to FOIA and DPA/GDPR requests, with additional information on other data protection obligations.
3. This has been a challenging year for the ICT Information Access Team who handle requests, with staff working from home for the full period covered by this report.
4. Subject access requests made for personal data (under data protection law) were up 16 per cent on the previous year, and have been steadily increasing since the GDPR was introduced in May 2018. Subject access requests – often generated by discipline, grievance or employment tribunal cases – are becoming increasingly complex and time-consuming to deal with.
5. There is a commitment to take this report to the Audit Committee; it is on the forward programme for the Committee for the October 2021 meeting. Because of this, a new simplified approach has been adopted based on PowerPoint slides, so the body of this report is attached as an **annex** to this covering paper.

Impacts

Equality Impact

6. The London Fire Commissioner and decision takers are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when exercising our functions and taking decisions.
7. It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
8. The protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), Race (ethnic or national origins, colour or nationality), Religion or belief (including lack of belief), Sex, and Sexual orientation.
9. The Public Sector Equality Duty requires us, in the exercise of all LFC functions (i.e. everything the LFC does), to have due regard to the need to:
 - a) Eliminate discrimination, harassment and victimisation and other prohibited conduct.
 - b) Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
 - c) Foster good relations between people who share a relevant protected characteristic and persons who do not share it.

¹ Including the Environmental Information Regulations (EIR)

10. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
 - b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

11. The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
12. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - a) tackle prejudice, and (b) promote understanding.
5. There are no significant equality impacts arising from the work to handle and respond to information requests.

Procurement and Sustainability

6. There are no procurement or sustainability implications arising from this report.

Strategic Drivers

7. The report demonstrates the extent to which the Brigade is complying with the statutory requirement to respond to information requests under freedom of information and data protection law within prescribed time limits.

Workforce Impact

8. There is no specific workforce impact arising from this report.

Finance comments

9. The Chief Finance Officer has reviewed this report and has no comments.

Legal comments

10. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office.
11. The Data Protection Act 2018 (DPA 2018) sets out the framework for data protection law in the UK. The UK General Data Protection Regulation (UK GDPR) came into effect on 01 January 2021. It sets out the key principles, rights and obligations for most processing of personal data in the UK. The Freedom of Information Act 2000 (FOIA) provides public access to information held by public authorities.
12. The Commissioner is required to comply with the provisions of FOIA, the DPA 2018 and the UK GDPR.
13. This report sets out for the Commissioner its performance in dealing with statutory requests for information made under these three pieces of legislation.

List of Appendices

Appendix	Title	Protective Marking
1.	Information requests 2020/21	



LONDON FIRE BRIGADE

Information requests 2020/21

Data protection and Freedom of Information requests
received by the Brigade

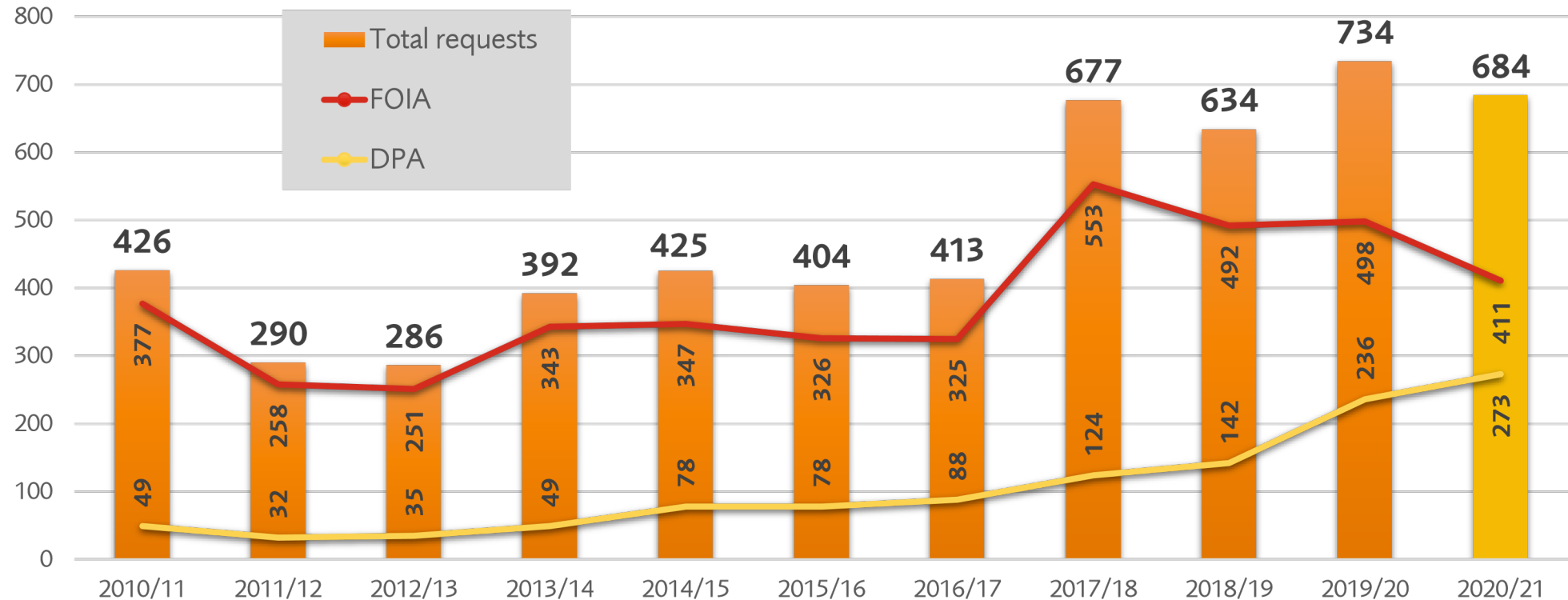
Head of Information Management (and DPO)

This report

- Update on Brigade performance in responding to information requests under freedom of information* and data protection law.
- Information Access Team deals with information requests as part of the ICT Information Management.
- Head of Information Management is the Brigade's Data Protection Officer

* includes requests under the Freedom of Information Act and Environmental Information Regulations (two requests in 2020/21).

Total requests received



Total requests received

- Requests down; 2020/21 2nd highest for 10 years.
- Data protection requests up 16% – requests becoming more time consuming.
- Since GDPR (May 2018) a steady year-on-year growth in requests.
- Fall in FOIA requests (17%)
- FOIA requests up in 2017/18 following the Grenfell Tower fire and interest in building fire safety.

Performance

London Safety Plan 2017 performance indicator (CO16) measures how well the Brigade is meeting the statutory deadlines for responding to information requests under the FOIA (20 working days) and to Subject Access Requests (SAR) under the DPA (one calendar month).

Indicator		2017/18	2018/19	2019/20	2020/21
CO 16 – Requests for information under DPA and FOIA fulfilled within time limits	Performance	97.5%	94.8%	82.3%	41.4%
	Target	90%	90%	90%	90%

Performance

Failure to achieve statutory deadlines impacted by:

- overall increase in the number of data protection requests (SARs).
- extensive/time-consuming SAR requests involving 100s of documents (linked to grievance, discipline, or employment tribunal cases).

- COVID-19 lockdown and staff working from home.

COVID impacts

- Holders of information had other priorities.
- A general loss in productivity (carer, schooling, illness).
- Challenges in accessing IT equipment (the varying suitability of personal devices) and bespoke software.
- A delay in recruiting to vacancies due to the uncertainty of COVID and medium-term working arrangements.

- Loss of access to physical files and manual ways of working (such as reviewing large volumes of documents).

ICO position on COVID impacts

- *"... we understand that resources, whether they are finances or people, may be diverted away from usual compliance or information rights work. Whilst we can't extend statutory timescales, we will not be penalising public authorities for prioritising other areas or adapting their usual approach during this extraordinary period."*

- Welcomed at the time; but inevitably created a build up of cases

Recovery plan

- Temporary member of staff (August – June 21)
- Acted-up internal candidate in June 2021 •
Problems recruiting suitably experienced staff (from Nov '21).
- Recruitment for additional temporary resource

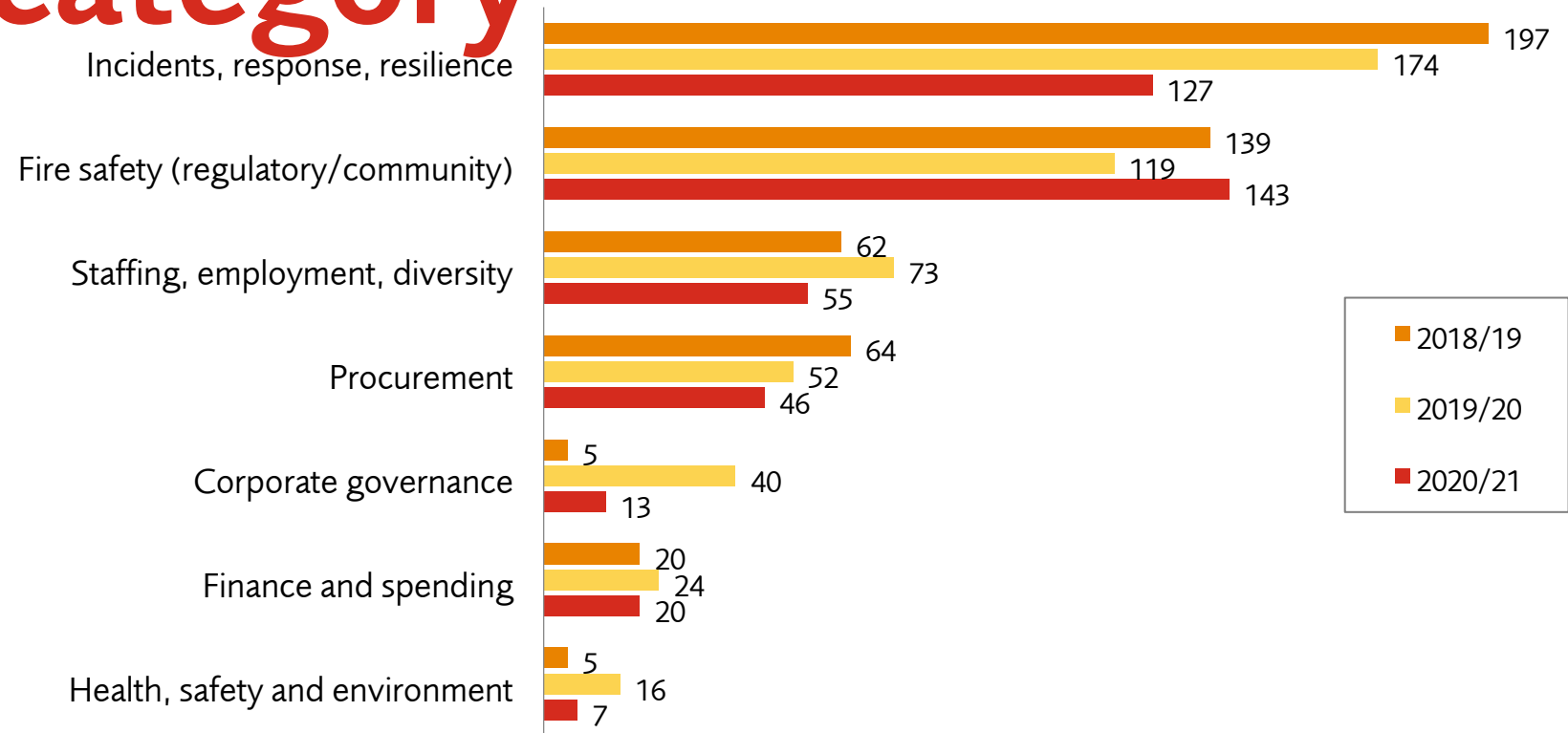
- (FRSD); extra person started August 2021
- Exploring M365 eDiscovery tools

Freedom of information



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FOIA requests by broad category



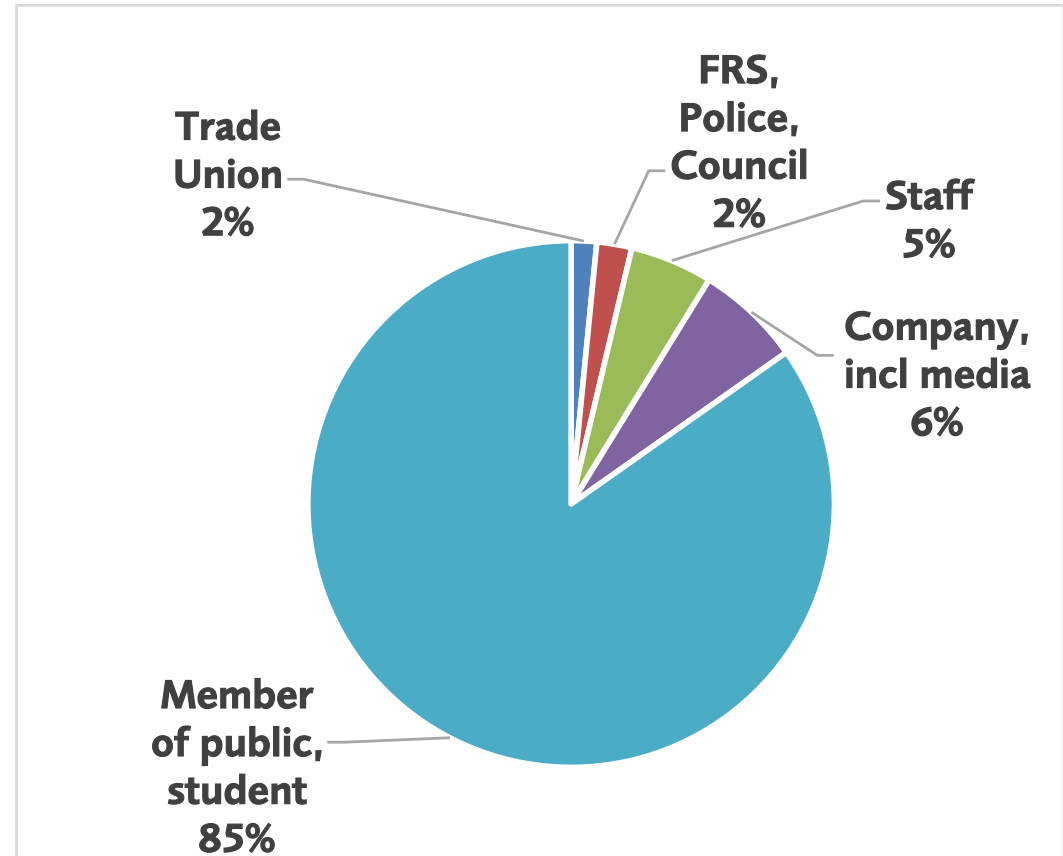
FOIA requests by broad

- **category** Requests for regulatory fire safety information is the largest type at 35%. Residents want to understand the fire safety issues relevant to their building.
- LFB's regulatory role means we can't provide all information requested.

- Incidents and response activity were second largest category at 31 per cent; 35 specific requests related impacts from Low Traffic Neighbourhood schemes.

FOIA requests by likely source

- FOIA is an 'applicant blind' process
- We do not have definitive information on requestors; there is no



requirement to provide this information.

- Infer likely source from details provided.

FOIA – internal reviews

- Requestors have the right to ask the Brigade to review its response if they are not satisfied with it.
- Precursor to any complaint to the Information Commissioner

- Reviews carried out by Head of Information Management.
- Review requests are infrequent; around two percent.
- Six review requests in 2021/22 (1.5% of all FOIA requests).

FOIA - complaints to the ICO

- Requestors have a right to complain to the ICO
- **one** in 2020/21 – complaint for about the use of exemption for fire safety information requested.

- ICO would normally investigate complaints, but due to Covid complaint sent to Brigade to resolve.

Transparency

- Pro-active publication of information is encouraged by FOIA publication scheme via LFB website.
- Disclosure log includes responses to FOIA requests – published on LFB website.
- Proactively publish data on London Datastore to meet FOIA requests (e.g. animal rescue); fire safety and

'shut in lift' data being considered for publication to help deal with requests.

Data protection



DPA – requestors

- Requests from staff, or on their behalf (e.g. solicitors, TUs), account for one third of requests.
- Often linked to grievance, discipline or employment tribunal cases, are complex and time-consuming.

DPA –

- Police requests account for two-thirds of requests, but want simply provided information, e.g. incident caller details for arson investigations.

exemptions used

There are very few exemptions to disclosure available in data protection law. The main ones being:

DPA –

- Data about people other than the data subject (third parties)
- Legal professional privilege

internal reviews

- As with FOIA requests, the Brigade will review its handling of a request.

DPA –

- In 2020/21 there were 10 requests for review; four per cent of all DP requests. Main concerns were :
 - redactions (most often to protect third party data),
- missing information (requestors think there is more information than is actually the case)

DPA –

complaints to ICO

- Requestors can complain to the ICO
- **eight** in 2020/21 – mostly about information not being supplied or excessive redaction of information.
- ICO would normally investigate complaints, but due to Covid complaint sent to Brigade to resolve.

Personal data breaches

- GDPR introduced new duty to record personal data breaches and for high risks to be reported to the ICO.
- **Nine** internally reported data breaches in 2020/21; all low risk and none notifiable to ICO.
- The IAT work with teams affected to improve organisational awareness of the risks of handling personal data.

DPA training and awareness

- Briefing session for senior staff in People Services Department, via Microsoft Teams, in July 2020.
- New online data protection training trialed in Q4 2020/21 for wider roll-out during 2021/22.
- Training spec for enhanced training for those staff who regularly process personal data.

DPA – use of e-Discovery tools

- Currently, rely on staff/managers providing the personal data requested.
- Roll-out of Microsoft 365 provides the opportunity to use the e-discovery tools to locate information for requests.

- Migration of all documents and emails to M365 won't be completed until end 2021, but the team have started to use the tool.

Privacy by design

- GDPR is based on 'privacy by design'.
- Data protection impact assessments (DPIAs) is the way we ensure new projects, updated policies, etc. are designed with privacy in mind.

- But, many DPIAs are produced at the later stages of change initiatives, rather than at the start.
- Can be time consuming to handle.