

Pecyn Dogfennau Cyhoeddus

Cabinet

Meeting Venue
**Siambwr y Cyngor - Neuadd y Sir,
Llandrindod, Powys**

Meeting date
Dydd Mawrth, 21 Gorffennaf 2020

Meeting time
2.00 pm

For further information please contact
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County Hall
Llandrindod Wells
Powys
LD1 5LG

Mae croeso i chi siarad yn Gymraeg neu yn Saesneg yn y cyfarfod.
Rhowch wybod pa iaith rydych am ei defnyddio erbyn hanner dydd, ddau ddiwrnod
gwaith cyn y cyfarfod.
You are welcome to speak Welsh or English in the meeting.
Please inform us of which language you wish to use by noon, two working days
before the meeting.

AGENDA

1.	YMDDIHEURIADAU
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Derbyn ymddiheuriadau am absenoldeb.

2.	DATGANIADAU O DDIDDORDEB
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Derbyn unrhyw ddatganiadau o ddiddordeb gan Aelodau yn ymwneud ag eitemau
i'w hystyried ar yr agenda.

3.	DEDDF RHENTI CARTREFI (FFIOEDD AC ATI)(CYMRU) 2019; TREFNIADAU GWEITHREDU AR GYFER CYNGOR SIR POWYS A RENT SMART CYMRU
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Ystyried adroddiad gan y Cynghorydd Sir James Evans, Aelod Portffolio ar faterion
Gwasanaethau Datblygu Economaidd, Tai a Rheoleiddio.
(Tudalennau 1 - 16)

4.	TREFNIADAU PARCIO CEIR HAF 2020
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Ystyried adroddiad ar drefniadau parcio ceir ar gyfer Haf 2020.
(To Follow)

5.	MONITRO GALWADAU LLES
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Ystyried adroddiad gan y Cyngorydd Sir Graham Breeze, Aelod Portffolio ar faterion Llywodraethu ac Ymgysylltu Corfforaethol
(Tudalennau 17 - 24)

6.	ADRODDIAD LLYWODRAETHU GWYBODAETH BLYNYDDOL 2019-2020
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Ystyried adroddiad gan y Cyngorydd Sir Graham Breeze, Aelod Portffolio ar faterion Llywodraethu ac Ymgysylltu Corfforaethol.
(Tudalennau 25 - 38)

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE

21 July 2020

REPORT AUTHOR: County Councillor James Evans
Portfolio Holder for Economic Development, Housing
and Regulatory Services

REPORT TITLE: The Renting Homes (Fees etc.) (Wales) Act 2019;
implementation arrangements for Powys County
Council and Rent Smart Wales

REPORT FOR: Decision

1. Purpose

1.1 The Renting of Homes (Fees etc) (Wales) Act 2019 came into force on 5th May 2019. From 1st September 2019, it bans letting agents and landlords who manage their own properties from charging any fees before, during or after a tenancy unless specifically exempted by the Act. Such a banned payment is called a 'prohibited payment'.

1.2 Letting agents and self-managing landlords are also banned from requiring a tenant to take out a loan or enter into a contract for services.

1.3 Enforcement of these new requirements can be undertaken by the Council and Rent Smart Wales (as the Single Licencing Authority) if the authority adopts and delegates powers to Rent Smart Wales. This will contribute to a fairer and more transparent experience for tenants relying on the private rented sector. It is also anticipated it should contribute to more secure tenancies for private sector housing tenants.

1.4 The Act places a duty on Local Housing Authorities to make information publicly available, including details of how prohibited payments and holding deposits can be recovered. Housing will place the required information on the Council website and create links to the website to allow the Council to meet that duty.

2. Background

2.1 Welsh Government believe that any costs associated with renting in the private sector should be reasonable, affordable and transparent. The new Act was brought in to achieve this aim by enabling Local Authorities to regulate such costs through informal and formal means.

2.2 The Act defines permitted payments that can be required by letting agents and self-managing landlords as:

- rent
- holding deposits
- security deposits
- payments in respect of utilities (e.g. council tax, television, licence and communication services)
- payments in default (where tenant has done something wrong e.g. lost keys, late payment of rent)

2.3 Any payments other than those listed above are prohibited. Where any rent payment, in one period, is greater than the amount of rent payable in any other period during the contract, the difference (a 'rent fluctuation') is also considered a prohibited payment. There is an exception where there is a 'permitted variation' agreed between landlord and tenant.

2.4 'Holding deposits' are limited to one week's rent and must be re-paid within seven days of the contract being agreed. If the tenancy contract is not agreed, the deposit must, subject to limited exceptions, be repaid within 15 days.

2.5 There will be no change to existing legislation governing 'security deposits', but Welsh Ministers now have the power to cap them. There are no plans to legislate for a cap, but Welsh Government will be monitoring trends in deposits and will only regulate if necessary.

2.6 Failure to comply with the provisions in the Act, in the following ways, will restrict the landlord's ability to serve a valid notice of possession ("no fault", Section 21 possessions):

- A prohibited payment has been required and paid, but not re-paid by the letting agent/self-managing landlord
- A holding deposit has not been repaid

2.7 This change will protect tenants by reducing financial exploitation.

Enforcement

2.8 The Council is responsible for enforcing this legislation in partnership with Rent Smart Wales (RSW). The legislation places the duty for enforcement on each local authority, with a power to share responsibility with RSW. All 22 Welsh Councils have agreed to a memorandum of understanding with RSW in relation to regulation of the private rented sector. The Housing (Wales) Act 2014 made provision for the appointment of a Licensing Authority for the scheme where Cardiff City Council were appointed by WG as the Licensing Authority and Cardiff City Council subsequently established RSW for this purpose.

2.9 RSW will take enforcement action in place of Local Authorities in limited circumstances:

- where RSW is undertaking an audit of an agent and find evidence of noncompliance
- where RSW is taking enforcement action for Housing (Wales) Act 2014 offences (e.g. not registered with RSW) and tenant fee contraventions are found
- other exceptional circumstances to be agreed on a case by case basis with the relevant Local Authority

2.10 Local Authorities are primarily responsible for enforcing the requirements and have a duty to inform the Licensing Authority (Rent Smart Wales) if they take enforcement action. Rent Smart Wales will also inform Local Authorities if they serve a fixed penalty notice or prosecute.

2.11 There are two formal enforcement options:

- Issue of a fixed penalty notice (FPN) of £1,000, the payment of which would avoid prosecution proceedings. Fixed penalty payment receipts will be used to fund any additional enforcement activity by the Housing Service (in accordance with the Act). However, non-payment would lead to prosecution by the authority (and only appeal mechanism against the FPN).
- Prosecution for offences under the Act which could result in a fine not subject to a minimum on the standards scale of fines (except for failure to provide information required by statutory notice, in which case a fine up to level 4 on the standard scale could be imposed by a judge)

2.12 Sections 17(2) and (3) of the Renting Homes (Fees etc) (Wales) Act 2019, enable Rent Smart Wales to take the above-mentioned enforcement actions but it is a legal requirement for Powys County Council to provide written consent for Rent Smart Wales (Cardiff City Council) to do so. If Cabinet give such consent, both Powys County Council officers and RSW will be able to take enforcement action

2.13 Any enforcement action will be taken in accordance with the Local Authority Enforcement Concordat to ensure consistency, proportionality and fairness.

3. Advice

3.1 **Option 1** - It is recommended that Members delegate authority for enforcing provisions of the Renting of Homes (Fees etc) (Wales) Act 2019 to the Corporate Director of Economy and Environment, with appropriate powers of sub-delegation.

3.2 That Members authorise Cardiff City Council, as the Single Licensing Authority for Wales (Rent Smart Wales), to exercise any function of an enforcement authority, in relation to Powys County Council's area, for the purposes of the Renting Homes (Fees etc.) (Wales) Act 2019, including (but

without limitation) taking enforcement activity and bringing criminal proceedings pursuant to section 19 of that Act.

Advantages:

- To enable the new legislation to be implemented quickly and efficiently
- To ensure that enforcement powers are also delegated to Rent Smart Wales, with whom the department work in partnership, for the enforcement of this legislation
- To deliver consistency of enforcement activity across Wales

Disadvantages:

- No disadvantages identified

3.3 **Option 2** - Not to delegate authority to the Corporate Director of Economy and Environment or Rent Smart Wales respectively.

Advantages: None.

Disadvantages:

- Will not allow new legislation to be implemented quickly and efficiently
- Will not ensure enforcement powers are delegated to Rent Smart Wales, with whom the department work in partnership for enforcement of this legislation
- Will not ensure consistency across Wales

Preferred Choice and Reasons

3.4 **Option 1** is the preferred choice for reasons stated above. Enforcement of these new requirements will contribute to a fairer and more transparent experience for tenants relying on the private rented sector. It is also anticipated it should contribute to more secure tenancies for private sector housing tenants.

4. Resource Implications

4.1 **Financial Implications** - Adoption will result in the scheme being delivered at zero financial cost to the Council with enforcement activities undertaken by a dedicated team at Rent Smart Wales. Consequently, no negative financial implications are associated with adoption. However, should delegation not be granted, Powys would need to undertake its own investigation and enforcement, incurring additional cost for the authority. There will also be additional financial pressure associated with recovery of fixed penalty notices associated with non-compliance, to cover the Council's enforcement costs.

4.2 Workforce - Adoption may reduce any burden on Trading Standards. Non-adoption would place significant pressure on existing teams involved with investigation and enforcement activity. Legal Services would also come under pressure regarding recovery of fixed penalty notices and possible prosecution of offenders for non-payment.

4.3 Digital/Physical Implications - There will be no additional digital or physical implications associated with adoption. The process will be outsourced to Rent Smart Wales, specialists in regulation of the private rented sector. They will use their own specialist resources and infrastructure to regulate compliance on behalf of the Council under an agreed memorandum of understanding. Non-adoption will increase pressure on existing Council services and result in additional cost should the Council undertake this activity.

4.4 "The Head of Finance (Section 151 Officer) notes the content of section 4 and can support the recommendation on that basis."

5. Legal implications

5.1 Option one would be the most straight forward for the Council. Cardiff, acting for all other authorities have a dedicated team dealing with these issues. If delegation did not take place, Powys would need to carry out their own prosecutions and enforcement which would incur additional charges and put significant pressure on the relevant teams within the Council.

5.2 The Head of Legal and Democratic Services (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report".

6. Data Protection

6.1 The delegation of enforcement powers in Powys will involve the processing of personal data. Delivery will be implemented by Rent Smart Wales, who will be the data controller, in addition to Powys County Council. Accordingly, Rent Smart Wales will be required to comply with the General Data Protection Regulations 2018, under memorandum of understanding with the Council.

6.2 Personal data processed by Powys County Council under the agreement will be processed in line with data protection legislation.

7. Comment from local member(s)

7.1 No comment from local Members

8. Integrated Impact Assessment

8.1 Impact Assessment is attached at Appendix 1.

8.2 Introduction of The Renting Homes (Fees etc.) (Wales) Act 2019 and implementation arrangements for Powys County Council and Rent Smart Wales aim to remove the financial barrier of unreasonable fees, allowing easier access to the private rented sector, particularly for those on low incomes. It should contribute to a fairer and more transparent experience for tenants relying on the private rented sector. There should be a positive impact on communities from increased access to more long-term financially sustainable tenancies, reducing the incidence of homelessness & providing additional disposable income for private sector housing tenants. It should reduce likelihood of empty lets, contributing to stronger and more sustainable communities and positively impact the local economy through provision of more disposable income, delivering stronger, safer and more economically viable communities.

9. Recommendations

9.1 To delegate authority for enforcing provisions of the Renting of Homes (Fees etc) (Wales) Act 2019 to the Corporate Director of Economy and Environment, with appropriate powers of sub-delegation.

9.2 To authorise Cardiff City Council, as the Single Licensing Authority for Wales (Rent Smart Wales), to exercise any function of an enforcement authority, in relation to Powys County Council's area, for the purposes of the Renting Homes (Fees etc.) (Wales) Act 2019, including (but without limitation) taking enforcement activity and bringing criminal proceedings pursuant to section 19 of that Act.

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Head of Service:	Nina Davies
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Corporate Director:	Nigel Brinn
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Please read the accompanying guidance before completing the form.

This **Impact Assessment (IA)** toolkit, incorporates a range of legislative requirements that support effective decision making and ensure compliance with all relevant legislation. **Draft versions of the assessment should be watermarked as “Draft” and retained for completeness. However, only the final version will be made publicly available. Draft versions may be provided to regulators if appropriate. In line with Council policy IAs should be retained for 7 years.**

Service Area	Housing	Head of Service	Nina Davies	Director	Nigel Brinn	Portfolio Holder	Cllr James Evans
Proposal	The Renting Homes (Fees etc.) (Wales) Act 2019; implementation arrangements for Powys County Council and Rent Smart Wales						

Outline Summary / Description of Proposal

The Renting of Homes (Fees etc) (Wales) Act 2019 came into force on 5th May 2019. From 1st September 2019, it bans letting agents and landlords who manage their own properties from charging any fees before, during or after a tenancy unless specifically exempted by the Act. Such a banned payment is called a ‘prohibited payment’. Enforcement of these new requirements can be undertaken by the Council and Rent Smart Wales (as the Single Licencing Authority) if the authority adopts and delegates powers to Rent Smart Wales. This will contribute to a fairer and more transparent experience for tenants relying on the private rented sector. It is also anticipated it should contribute to more secure tenancies for private sector housing tenants. The Council is responsible for enforcing this legislation in partnership with Rent Smart Wales (RSW). The legislation places the duty for enforcement on each local authority, with a power to share responsibility with RSW. All 22 Welsh Councils have agreed to a memorandum of understanding with RSW in relation to regulation of the private rented sector. The Housing (Wales) Act 2014, made provision for the appointment of a Licensing Authority for the scheme where Cardiff City Council were appointed as the Licensing Authority and subsequently established RSW for this purpose. There are two formal enforcement options:

- Issue of a fixed penalty notice (FPN) of £1,000, the payment of which would avoid prosecution proceedings. Fixed penalty payment receipts will be used to fund any additional enforcement activity by the Housing Service (in accordance with the Act). However, non-payment would lead to prosecution by the authority (and only appeal mechanism against the FPN).
- Prosecution for offences under the Act which could result in a fine not subject to a minimum on the standards scale of fines (except for failure to provide information required by statutory notice, in which case a fine up to level 4 on the standard scale could be imposed by a judge)

Proposal:

It is recommended that Members delegate authority for enforcing provisions of the Renting of Homes (Fees etc) (Wales) Act 2019 to the Corporate Director of Economy and Environment, with appropriate powers of sub-delegation. That Members authorise Cardiff City Council, as the Single Licensing Authority for Wales (Rent Smart Wales), to exercise any function of an enforcement authority, in relation to Powys County Council’s area, for the purposes of the Renting Homes (Fees etc.) (Wales) Act 2019, including (but without limitation) taking enforcement activity and bringing criminal proceedings pursuant to section 19 of that Act.

Advantages:

- To enable the new legislation to be implemented quickly and efficiently
- To ensure that enforcement powers are also delegated to Rent Smart Wales, with whom the department work in partnership, for the enforcement of this legislation
- To deliver consistency of enforcement activity across Wales

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Impact Assessment (IA)

The integrated approach to support effective decision making



1. Version Control (services should consider the impact assessment early in the development process and continually evaluate)

Version	Author	Job Title	Date
1	Julian Preece	Private sector Housing Lead	31st October 2019

2. Profile of savings delivery (if applicable)

2018-19	2019-20	2020-21	2021-22	2022-23	TOTAL
N/A	N/A	N/A	N/A	N/A	N/A

3. Consultation requirements

Consultation Requirement	Consultation deadline/or justification for no consultation
No consultation required (please provide justification)	No consultation required as the proposal is for implementation of national legislation applicable to the whole of Wales.

4. Impact on Other Service Areas

Does the proposal have potential to impact on another service area? (Have you considered the implications on Health & Safety, Corporate Parenting and Data Protection?) PLEASE ENSURE YOU INFORM / ENGAGE ANY AFFECTED SERVICE AREAS AT THE EARLIEST OPPORTUNITY
It is anticipated that implementation will have little impact on other service areas and any additional cost burden will be funded via fees derived from Fixed Penalty Notices issued to property letting agents and landlords in breach of the above regulations. The regulations aim to remove the financial barrier of unreasonable fees, allowing easier access to the private rented sector, particularly for those on low incomes. It should contribute to a fairer and more transparent experience for tenants relying on the private rented sector and it's anticipated it should contribute to more secure tenancies for private sector housing tenants, delivering stronger, safer and more economically viable communities in Powys.

5. How does your proposal impact on the council's strategic vision?

Council Priority	How does the proposal impact on this priority?	IMPACT Please select from drop down box below	What will be done to better contribute to positive or mitigate any negative impacts?	IMPACT AFTER MITIGATION Please select from drop down box below
The Economy We will develop a vibrant economy	Tenants will be better able to access private sector tenancies & benefit from increased levels of disposable income, providing a boost to the local economy.	Neutral	Adopting and enforcing legislation in Powys will contribute to a more positive impact delivering stronger, safer and economically viable communities in Powys.	Neutral

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Council Priority	How does the proposal impact on this priority?	IMPACT Please select from drop down box below	What will be done to better contribute to positive or mitigate any negative impacts?	IMPACT AFTER MITIGATION Please select from drop down box below
Health and Care We will lead the way in effective, integrated rural health and care	Tenants may more readily access sustainable tenancies, reducing homelessness and improving mental health & wellbeing. Greater levels of disposable income will improve health & wellbeing for young, elderly & disabled residents alike, mitigating the effects of cold homes.	Good	Adopting and enforcing legislation in Powys will contribute to a more positive impact.	Good
Learning and skills We will strengthen learning and skills	Students will suffer less ill health & be better placed to complete homework, given more sustainable tenancies, more disposable income to create 'warm' home environments from which to work.	Neutral	Adopting and enforcing legislation in Powys will contribute to a more positive impact.	Neutral
Residents and Communities We will support our residents and communities	Facilitating access to more sustainable tenancies & delivering more disposable income through removal of the financial barrier associated with unreasonable fees should see improvements in community cohesion, reduction in property blight, crime and anti-social behaviour associated with the private rented sector.	Neutral	Adopting and enforcing legislation in Powys will contribute to a more positive impact.	Neutral

Source of Outline Evidence to support judgements
<p>Renting Homes (Fees etc.) (Wales) Bill Summary may be found here: http://www.assembly.wales/research%20documents/18-059%20-%20renting%20homes%20(fees%20etc.)%20(wales)%20bill/18-59-web-english.pdf</p> <p>Renting Homes (Fees etc.) (Wales) Bill Welsh Government Impact Assessment may be found here: https://gov.wales/sites/default/files/publications/2019-04/renting-homes-bill-gateway-impact-assessment.pdf</p>

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6. How does your proposal impact on the Welsh Government's well-being goals?

Well-being Goal	How does proposal contribute to this goal?	IMPACT Please select from drop down box below	What will be done to better contribute to positive or mitigate any negative impacts?	IMPACT AFTER MITIGATION Please select from drop down box below
A prosperous Wales: An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.	Facilitating access to more sustainable tenancies provides greater levels of disposable income to be recycled within the local Powys economy and will deliver more sustainable and cohesive communities.	Neutral	Adopting and enforcing legislation in Powys will contribute to a more positive impact delivering stronger, safer and economically viable communities in Powys.	Neutral
A resilient Wales: A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).	No recognisable impact	Unknown	N/A	Unknown
A healthier Wales: A society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood. Public Health (Wales) Act, 2017: Part 6 of the Act requires for public bodies to undertake a health impact assessment to assess the likely effect of a proposed action or decision on the physical or mental health of the people of Wales.	Tenants may more readily access sustainable tenancies, reducing homelessness and improving mental health & wellbeing. Greater levels of disposable income will improve health & wellbeing for young, elderly & disabled residents alike.	Good	Targeted support to those in the private rented sector will contribute to a more positive impact.	Good

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Well-being Goal	How does proposal contribute to this goal?	IMPACT Please select from drop down box below	What will be done to better contribute to positive or mitigate any negative impacts?	IMPACT AFTER MITIGATION Please select from drop down box below
A Wales of cohesive communities: Attractive, viable, safe and well-connected Communities.	Improvements will be seen in community cohesion through greater access to sustainable tenancies, reducing numbers of vacant lets and providing greater levels of disposable income available for reinvestment within the local Powys economy.	Good	Targeted support to the private rented sector will contribute to a more positive impact delivering stronger, safer & more economically viable communities in Powys.	Good
A globally responsible Wales: A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being. Human Rights - is about being proactive (see guidance) UN Convention on the Rights of the Child: The Convention gives rights to everyone under the age of 18, which include the right to be treated fairly and to be protected from discrimination; that organisations act for the best interest of the child; the right to life, survival and development; and the right to be heard.	No recognisable impact	Unknown	N/A	Unknown
A Wales of vibrant culture and thriving Welsh language: A society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.				
<i>Opportunities for persons to use the Welsh language, and treating the Welsh language no less favourable than the English language</i>	Provision is made available to clients who wish to communicate via the medium of Welsh.	Neutral	Provision is made available to clients who wish to communicate via the medium of Welsh.	Neutral
<i>Opportunities to promote the Welsh language</i>	Promotional literature will be offered in the medium of Welsh.	Neutral	N/A	Neutral
<i>Welsh Language impact on staff</i>	No impact expected.	Neutral	N/A	Neutral
<i>People are encouraged to do sport, art and recreation.</i>	No impact expected.	Neutral	N/A	Neutral
A more equal Wales: A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio economic background and circumstances).				
Age	All private rented sector groups will have better access to sustainable tenancies & more disposable income.	Neutral	Targeted support to the private rented sector will contribute to a more positive impact.	Neutral

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The integrated approach to support effective decision making



Well-being Goal	How does proposal contribute to this goal?	IMPACT Please select from drop down box below	What will be done to better contribute to positive or mitigate any negative impacts?	IMPACT AFTER MITIGATION Please select from drop down box below
Disability	All private rented sector groups will have better access to sustainable tenancies & more disposable income.	Neutral	Targeted support to the private rented sector will contribute to a more positive impact.	Neutral
Gender reassignment	All private rented sector groups will have better access to sustainable tenancies & more disposable income.	Neutral	Targeted support to the private rented sector will contribute to a more positive impact.	Neutral
Marriage or civil partnership	All private rented sector groups will have better access to sustainable tenancies & more disposable income.	Neutral	Targeted support to the private rented sector will contribute to a more positive impact.	Neutral
Race	All private rented sector groups will have better access to sustainable tenancies & more disposable income.	Neutral	Targeted support to the private rented sector will contribute to a more positive impact.	Neutral
Religion or belief	All private rented sector groups will have better access to sustainable tenancies & more disposable income.	Neutral	Targeted support to the private rented sector will contribute to a more positive impact.	Neutral
Sex	All private rented sector groups will have better access to sustainable tenancies & more disposable income.	Neutral	Targeted support to the private rented sector will contribute to a more positive impact.	Neutral
Sexual Orientation	All private rented sector groups will have better access to sustainable tenancies & more disposable income.	Neutral	Targeted support to the private rented sector will contribute to a more positive impact.	Neutral
Pregnancy and Maternity	All private rented sector groups will have better access to sustainable tenancies & more disposable income.	Neutral	Targeted support to the private rented sector will contribute to a more positive impact.	Neutral

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Source of Outline Evidence to support judgements

Renting Homes (Fees etc.) (Wales) Bill Summary may be found here:

[http://www.assembly.wales/research%20documents/18-059%20-%20renting%20homes%20\(fees%20etc.\)%20\(wales\)%20bill/18-59-web-english.pdf](http://www.assembly.wales/research%20documents/18-059%20-%20renting%20homes%20(fees%20etc.)%20(wales)%20bill/18-59-web-english.pdf)

Renting Homes (Fees etc.) (Wales) Bill Welsh Government Impact Assessment may be found here:

<https://gov.wales/sites/default/files/publications/2019-04/renting-homes-bill-gateway-impact-assessment.pdf>

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7. How does your proposal impact on the council's other key guiding principles?

Principle	How does the proposal impact on this principle?	IMPACT Please select from drop down box below	What will be done to better contribute to positive or mitigate any negative impacts?	IMPACT AFTER MITIGATION Please select from drop down box below
Sustainable Development Principle (5 ways of working)				
Long Term: <i>Looking to the long term so that we do not compromise the ability of future generations to meet their own needs.</i>	Easier access to sustainable tendencies will reduce homelessness, create greater levels of disposable income which may be recycled within the local Powys economy creating more cohesive communities.	Neutral	Adopting and enforcing legislation in Powys will contribute to a more positive impact delivering stronger, safer and economically viable communities in Powys.	Neutral
Collaboration: <i>Working with others in a collaborative way to find shared sustainable solutions.</i>	Enforcement will involve a collaborative partnership between the council and Rent Smart Wales to eradicate unnecessary and disproportionate fees associated when accessing tenancies within the private rented sector	Good	Adopting and enforcing legislation in Powys will contribute to a more positive impact delivering stronger, safer and economically viable communities in Powys.	Good
Involvement (including Communication and Engagement): <i>Involving a diversity of the population in the decisions that affect them.</i>	The council has not need to consult with effected communities, this is national legislation applicable to the whole private rented sector throughout Wales.	Neutral	Implementation will be disseminated via Council web site.	Neutral
Prevention: <i>Understanding the root causes of issues to prevent them from occurring.</i>	It will be an offence for agents to charge fees unless specifically exempted by legislation.	Good	Adopting and enforcing legislation in Powys will contribute to a more positive impact.	Good
Integration: <i>Taking an integrated approach so that public bodies look at all the well-being goals in deciding on their well-being objectives.</i>	The legislation takes an integrated approach to tackling the issue of disproportionate fees preventing access to private sector tenancies, particularly for those on low incomes	Good	Targeted support to the private rented sector will contribute to a more positive impact.	Good
Preventing Poverty: Prevention, including helping people into work and mitigating the impact of poverty.	Private sector housing tenants will have better access to more sustainable tenancies & additional disposable income to mitigate the impact of poverty.	Good	Targeted support to the private rented sector will contribute to a more positive impact.	Good
Unpaid Carers: Ensuring that unpaid carers views are sought and taken into account	No impact expected.	Unknown	N/A	Unknown

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Principle	How does the proposal impact on this principle?	IMPACT Please select from drop down box below	What will be done to better contribute to positive or mitigate any negative impacts?	IMPACT AFTER MITIGATION Please select from drop down box below
Safeguarding: Preventing and responding to abuse and neglect of children, young people and adults with health and social care needs who can't protect themselves.	No impact expected.	Unknown	N/A	Unknown
Impact on Powys County Council Workforce	There will be minimal impact on Powys staff with any additional expense offset by fees generated from service of Fixed Penalty Notices.	Neutral	N/A	Neutral
Source of Outline Evidence to support judgements				
Renting Homes (Fees etc.) (Wales) Bill Summary may be found here: http://www.assembly.wales/research%20documents/18-059%20-%20renting%20homes%20(fees%20etc.)%20(wales)%20bill/18-59-web-english.pdf Renting Homes (Fees etc.) (Wales) Bill Welsh Government Impact Assessment may be found here: https://gov.wales/sites/default/files/publications/2019-04/renting-homes-bill-gateway-impact-assessment.pdf				

8. What is the impact of this proposal on our communities?

Severity of Impact on Communities	Scale of impact	Overall Impact
Low	Low	Low
Mitigation		
Impact on communities will be positive regarding increased access to more long-term financially sustainable tenancies, reducing the incidence of homelessness & providing additional disposable income for private sector housing tenants. It will reduce likelihood of empty lets, contributing to stronger and more sustainable communities. It should also positively impact the local economy through provision of more disposable income available locally, delivering stronger, safer and more economically viable communities.		

9. How likely are you to successfully implement the proposed change?

Impact on Service / Council	Risk to delivery of the proposal	Inherent Risk
Low	Low	Low

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Mitigation			
Any financial risks associated with implementation of the act in Powys should be mitigated through use of fees associated with Fixed Penalty Notices for non-compliance. Implementation should save the authority money previously used to provide bonds to facilitate access to tenancies within the private rented sector.			
Risk Identified	Inherent Risk Rating	Mitigation	Residual Risk Rating
Financial risk associated with implementation absorbed through use of Fixed Penalty Notices. Possible saving by removing need for bonds to facilitate access to private rented sector.	Low	N/A	Low
Overall judgement (to be included in project risk register)			
Very High Risk	High Risk	Medium Risk	Low Risk
			Low Risk

10. Overall Summary and Judgement of this Impact Assessment?

Outline Assessment (to be inserted in cabinet report)	Cabinet Report Reference:
Introduction of The Renting Homes (Fees etc.) (Wales) Act 2019 and implementation arrangements for Powys County Council and Rent Smart Wales aim to remove the financial barrier of unreasonable fees, allowing easier access to the private rented sector, particularly for those on low incomes. It should contribute to a fairer and more transparent experience for tenants relying on the private rented sector. There should be a positive impact on communities from increased access to more long-term financially sustainable tenancies, reducing the incidence of homelessness & providing additional disposable income for private sector housing tenants. It should reduce likelihood of empty lets, contributing to stronger and more sustainable communities and positively impact the local economy through provision of more disposable income, delivering stronger, safer and more economically viable communities.	

11. Is there additional evidence to support the Impact Assessment (IA)?

What additional evidence and data has informed the development of your proposal?
<ul style="list-style-type: none"> Renting Homes (Fees etc.) (Wales) Bill Summary may be found here: http://www.assembly.wales/research%20documents/18-059%20-%20renting%20homes%20(fees%20etc.)%20(wales)%20bill/18-59-web-english.pdf Renting Homes (Fees etc.) (Wales) Bill Welsh Government Impact Assessment may be found here: https://gov.wales/sites/default/files/publications/2019-04/renting-homes-bill-gateway-impact-assessment.pdf

12. On-going monitoring arrangements?

What arrangements will be put in place to monitor the impact over time?
Feedback from frontline staff involved in private sector housing enforcement, councillor feedback and reviewing of complaints over time.
Please state when this Impact Assessment will be reviewed.
No requirement to be reviewed.

Cyngor Sir Powys County Council
Impact Assessment (IA)

The integrated approach to support effective decision making



13. Sign Off

Position	Name	Signature	Date
Impact Assessment Lead:	Julian Preece		November 2019
Head of Service:	Nina Davies		
Director:	Nigel Brinn		
Portfolio Holder:	Cllr. James Evans		

14. Governance

Decision to be made by	Date required
Cabinet	

FORM ENDS

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET

21st July 2020

REPORT AUTHOR: Cllr Graham Breeze

REPORT TITLE: Welfare Call Monitoring (COVID 19 – Response)

REPORT FOR: Information

1. Purpose

- 1.1 To describe the process in Powys to support those in our communities who are at the highest risk of severe illness if they contract COVID-19 (**‘the Shielded Group’**) and our most vulnerable residents.

2. Background

- 2.1 On the 23rd March 2020 the UK Government took the unprecedented step to try and limit the spread of COVID-19 and announced that residents with serious underlying health conditions would need to “shield” this meant that many of our residents were unable to leave their home and unable to get the basic needs of food and prescriptions.
- 2.2 **‘The Shielded Group’** were identified by the NHS and have been advised by letter to self-isolate. On 25th March, Powys received its first data from the Welsh Government, identifying 538 residents as being in the shielding group. Since then another 16 updates have been received from Welsh Government as further health conditions were added to the underlying health conditions list and GP’s identified more patients bringing the total to 5,766.
- 2.3 In addition to this group a further 4,538 residents identified as vulnerable from data held in Social Care, Housing and Customer Services were also included in welfare calls so that we could offer the same means of support to them (not including WG food parcels).
- 2.4 The role of the local authority is and has been vital in supporting our vulnerable residents throughout this challenging period. We have acted as the first point of contact for these individuals who have been concerned about their own individual situation and have sought help from us to meet their needs.

- 2.5 The delivery of that support has been a collective effort between many services and individuals within the authority as well our voluntary sector (PAVO and many other volunteers).

3. How we made contact

- 3.1 Each local authority received a data set of letter recipients within their area. The dataset contained residents name, address, telephone number (if included) and Unique Property Reference Number (UPRN).
- 3.2 The letter sent from Welsh Government to the shielded group asked them to rely on family, friends and other local support networks to help with anything they may need during the period that they were being asked to isolate. If the shielded person did not have anyone to rely on for help, they were asked to contact their local authority. The contact details for Powys was the council's main reception line number. Calls are received in and made out to our shielding and vulnerable residents.
- 3.3 The Goss ICM Platform, is our Customer Relationship Management system (CRM) this is used as the database for the residents' record. Through an integrated call script, the call advisor is able to easily navigate through a list of questions, which dependent on the answer provides an outcome for that resident and sends prompts automatically via e-mail to other council services or PAVO. The system also gathers data on whether the resident would like to receive a weekly or fortnightly call back from us.
- 3.4 Those residents that are vulnerable and known to Social Care are contacted by Social Care staff, these are recorded on the WCCIS case management system. If they are any changes in relation to WG food boxes these are passed to Customer Services to update the WG food parcel database.

4. The support offered for those in the Shielded Group and vulnerable residents

- 4.1 There is a multi-faceted offer of support to those that are shielded and vulnerable.

Welsh Government food boxes

Those in the Shielded Group who are unable to rely on family, friends or local community support are provided with a basic package of food and household essentials, delivered direct to their door each week by a food service supplier.

Emergency food parcel

Those in the Shielded Group that require a WG food parcel but do not have enough food until they receive their first delivery, were asked whether they would like their details passed onto PAVO, if they did an automatic e-mail request was made to PAVO requesting that they contact the individual to provide the necessary support.

Help with getting food

For those that had not yet received a food parcel or have no other means of securing food, a service request was automatically e-mailed to PAVO who are able to provide a food shopping service.

Help with getting medicines/prescriptions

For those that had no means of securing a delivery of prescriptions then a service request was automatically e-mailed to PAVO who are able to provide a prescription collection and delivery service.

Befriending Services Social contact / wellbeing support

For those residents that are now socially excluded or have no other support network, a befriending service was offered via PAVO.

Daily Living Support

Residents are asked whether they need support with their daily living, if they do this instigates a service request to the council's Assist team who will contact the resident to discuss their requirements further and put in place additional support should it be needed.

Council call back

To ensure contact was maintained with our residents during this time the council is offering a weekly or fortnightly call back service for those that want it.

Councillor call back

The resident is also asked whether they would like their details passed to their local councillor so that their councillor can make a call back to them.

Safeguarding Concerns

Any safeguarding concerns that are brought to the attention of the call handler are followed up with the appropriate team either Assist or Childrens Front door.

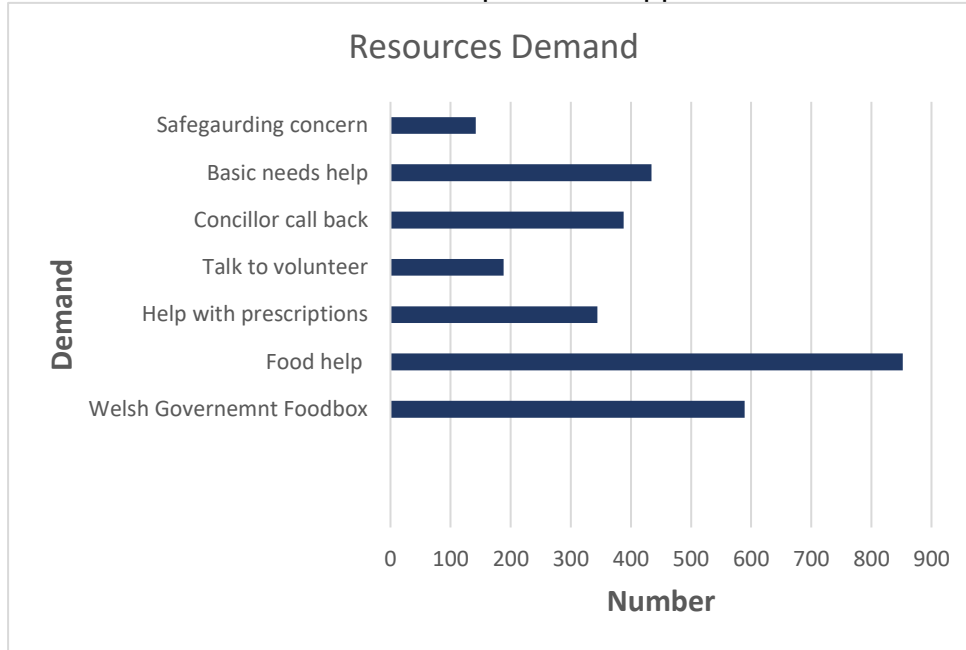
5. Data Sharing

- 5.1 The call script covers questions to individuals asking whether they agree for their information to be shared with various organisations who need that information in order for them to provide the support the individual requires.
- 5.2 The approach to data sharing, data security and information governance has been considered by the Data Protection Officer for Wales. The Information Commissioner has assured the NHS and Government Departments that she cannot envisage a situation where she would act against a health and care professional using or sharing data to deliver care and support, which is the clear priority in this health emergency.

6. Welfare Call Resources

- 6.1 Currently there are approximately 10 redeployed staff from a number of services making welfare calls to shielded and vulnerable residents, any calls received being dealt with by the Customer Services team. The initial call back team making contact for the first time consisted of a much larger group of staff.
- 6.2 Calls are also being made from social care teams and housing, for those residents identified as vulnerable.
- 6.3 In total 18,383 calls have now been made or received. With 10,304 records on the CRM database.

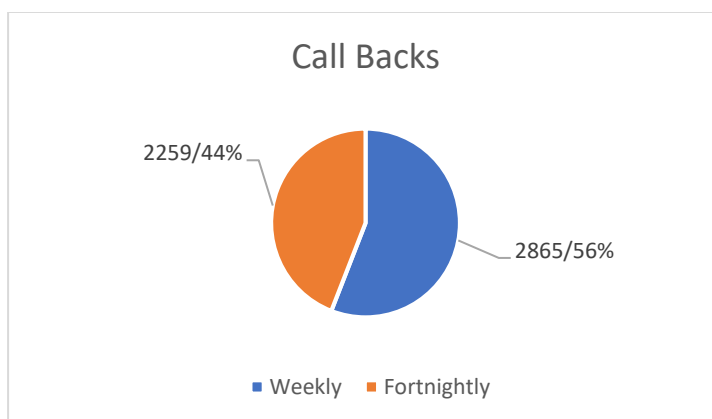
6.4 The chart below illustrates the requests of support from our residents.



Data up to 13/6/20

6.5 915 requests have been made for Welsh Government food boxes; this is 15.8% of those residents classed as shielding. 326 residents have since requested to be removed from the list. Leaving 589 residents (10.2%) still require a food box.

6.6 The chart below illustrates how many of our residents require a weekly or fortnightly call back.



6.6 The residents have been overwhelmed in the support that has been offered to them. Below are a number of examples of compliments received. -

"what an excellent service you are providing by going that extra mile to ensure residents are being looked after. All my friends are so happy that you take time to take time to listen to people and try and help them out even if its trivial. Please tell senior staff within PCC that this is an excellent service and everyone making these phone calls is a credit to the authority. Fantastic service".

Please thank everyone involved with the welfare calls because this is an unbelievable service provided by PCC. Please tell all the callers that everyone really appreciates the time they take to discuss any questions people may have. Excellent service, well done and thank you.

wants to pass on Congratulations to PCC on a wonderful service and appreciate all calls from PCC Welfare.

wishes to express how grateful she is for the Welfare Calls.

wants to pass on how wonderful she thinks we all are in Powys County Council and pass on her thanks for all the help during the pandemic.

Thank you so much, I do not know what I would do without your wonderful support and guidance,

7. Next Steps

- 7.1 On the 4th June the Welsh Government announced that "shielding" was to be extended until the 16th August 2020, therefore the support needed to our residents will continue at least up until that date.
- 7.2 As the council starts to move into its recovery phase and some services begin to get back to business as usual it will be key that we have the resources to continue to support our resident's.
- 7.3 Currently discussions are underway with PAVO to recruit volunteers that are able to work with the council to continue this service. Expressions of interest are currently being sort; full training will be given to ensure they meet GDPR and cyber security requirements and that they can use our systems.
- 7.4 The Welsh Government has asked councils whether they would be willing / able to assume responsibility for the provision and delivery of food parcels to shielding individuals as the Welsh Government contract is due to end on the 7th July.
- 7.5 The majority of councils are not in favour of taking on this responsibility because of concerns about capacity and the complexity that establishing the scheme locally would involve.

7.6 Consideration is also being given to some kind of means testing to ensure that only those that have insufficient economic means receive them, adding an administrative burden to the process.

8. Legal Implications

None identified

9. Resource Implications

The monthly ongoing cost of providing welfare calls is a £10,592. The funding of the staff is mainly through base budget from various areas of the council, with some staff funded through the generation of income. Staff are carrying out their substantive posts when not covering welfare calls.

10. Recommendation

For information only

Contact Officers:	Diane Reynolds
Tel:	01597826008
Email:	diane.reynolds@powys.gov.uk
Head of Service:	Diane Reynolds
Corporate Director:	Ness Young

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

CYNGOR SIR POWYS COUNTY COUNCIL.**CABINET EXECUTIVE****21st July 2020**

REPORT AUTHOR: County Councillor Graham Breeze
Portfolio Holder for Corporate Governance and
Engagement

REPORT TITLE: Annual Information Governance Report 2019-2020

REPORT FOR: Information

1. Purpose

1.1 To brief Cabinet on the on the Information Governance (IG) activities undertaken, practices implemented, and the standards of IG compliance achieved for the financial year 2019/2020

2. Background

2.1 Powys County Council has in place an Information Management Assurance Governance (IMAG) plan to initiate, develop, and monitor policies and practices in relation to information security, information management, and information risk, to ensure compliance with relevant information legislation and standards.

2.2 The report is supported by the following appendices 1- 3
Appendix 1 – ICO Enforcement training graphs
Appendix 2 - Information security incident breakdown
Appendix 3 - Cost of Freedom of Information requests

3. Advice**3.1 Information Management Assurance and Governance (IMAG) Plan**

3.2 The current IMAG plan was agreed by CIGG in March 2019, for implementation 2019 through to 2021. The plan details the execution of activity and objectives to improve IG practices within the Council. It also identifies and manages the ongoing IG work that takes place to maintain levels of compliance with information legislation, and standards of good practice.

3.3 There are 48 elements to the plan, as at the 31st March 2020,

- 12 had been completed,
- 24 were in progress and still within timescales,
- 3 were in progress but not likely to be completed within timescales
- 9 were out of timescales

3.4 Two CIGG meetings have taken place in the year where implementation of planned practices is considered, and challenged where timescales have not been met, and areas of concern discussed.

3.5 CIGG meets quarterly; with the August meeting cancelled and the March meeting cancelled due to priority breach management work and invoking of the Council's Business Continuity plans

3.6 Additionally, regular Corporate Information Governance Operational Group (CIOG) meetings have taken place, involving representatives of the Information Asset Owners, to discuss and monitor IG matters and measurements and to carry out the work activities as directed by the CIGG.

4 ICO Enforcement Training

4.1 In December 2012 the Information Commissioner (ICO) issued an enforcement order against Powys County Council requiring that all staff with access to personal data undertake training in the basics of the data protection and also the organisation's information policies, every 3 years.

4.2 The ICO regularly recommends to organisations that training should be completed on an annual basis. Additionally, the general rise of cyber security threats creates a new risk to the Council.

4.3 In April 2019 the Council amended its training requirements to include cyber security, reflecting those messages within the Council's information policies and revised data protection information.

4.4 All staff, agents, members etc with access to personal data and / or ICT equipment must undertake the mandatory *Cyber Security and GDPR* training, on an annual basis. Thus, exceeding the requirements of the ICO enforcement order. CIGG directed that all would complete this training between its release in April 2019 and the 31st March 2020.

4.5 Monthly reports have continued for Heads of Service and Executive Directors identifying those staff who are non-compliant, in order that they take necessary action to ensure compliance for their service area(s)

4.6 Compliance details (Departmental breakdowns at Appendix 1)

**	2 nd April 2019	2 nd March 2020*	2 nd April 2020**
Number of staff requiring training	2,188	2,453	2,391
Number of staff trained	1,889	2,356	1,812
Compliance rate	86.33%	96.05%	75.78%
Target Compliance rate	95%		

* mixture new and old courses

** The training compliance figures form part of the IG measurements provided to CIGG.

4.9 The decrease in the March to April figures is attributed to the decision that all were to have completed the new Cyber Security and GDPR training,

by the 31st March 2020, irrespective of the renewal period of the old training courses. As such the records for old training courses we no longer taken into account.

4.10 In August 2019 an agreed escalation process was implemented in respect of those who had persistently (over 3 months) remained non-compliant with the training requirements. Where, following a specific reminder to them and their line manager they remained non-compliant, their ICT access was to be removed. The execution of the escalation process was cancelled, by the SIRO.

5 Information Security Incidents

5.1 The council has had robust personal data breach reporting and management processes in place, for a number of years, which continues to ensure swift containment action, informed identification of information risks and mitigation, and supports the regulatory reporting requirements, to both the regulator and data subjects.

5.2 The table below provides details of incidents and personal data breaches, and comparison data from last year.

	2018/2019	2019/2020
Numbers of reported incidents	176	230
Number of personal data breaches	71 *	104*
Number of incidents reported to the ICO	25	9 (<i>1 by another organisation in respect of PCC data</i>)
Number of notifications to data subjects	11	18
Number of separate complaints made to the ICO over personal data breaches	3	4
Number of DPA breaches occurring externally	52	68
Number of DPA breaches occurring internally	17	21
Number of DPA breaches involving sensitive personal data	22	32
Number of DPA breaches contained	56	80

* using the definition of a personal data breach within GDPR. A personal data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed in connection with the provision of a public electronic communications service

5.3 A breakdown of service area & information security incidents types is provided at Appendix 2.

5.4 The increase of personal data breaches can likely be attributed to a greater staff awareness of the need to react to the incidents and breaches that occur, following media and press interest in the potential fines with the implementation of GDPR. The decrease of notifications to the ICO can be attributed to greater clarity from the regulator as to what would constitute a

reportable breach. Awareness is raised through CIGG, CIOG and messages to staff.

5.5 Reports of information security incidents are regularly made to CIGG, and CIOG and staff are made aware of the need to report incidents and breaches through notices and reminders in relation to the incidents that have occurred

5.6 Those personal data breaches reported to the ICO include the disclosure of information through various means, such as failing to remove (redact) relevant information, misdirected emails, failing to add privacy measures, and provision of information to those not entitled to receive it.

5.7 In all but one case the ICO has found that the Council breached data protection legislation, though has recognised that in most cases this has been due to human error in failing to follow organisational measures put in place to prevent breaches of personal data, rather than the Council not having necessary measures in place.

5.8 Whilst no regulatory action, such as fines or enforcement orders, have been taken against the Council, where the ICO has recommended further improvements, such as service specific or general awareness, checking processes employed, then these are implemented by the relevant service area or organisation as appropriate.

5.9 The ICO has provided 33 recommendations, within their decision notices. At this time, 26 have been implemented, 4 partially implemented and 3 not yet implemented. The implementation of recommendations maybe part of wider pieces of work, which have been delayed due to COVID work.

5.10 There has been an increase in the numbers of complaints made directly to the ICO, since the public have become much more aware of their information rights following the implementation of the General Data Protection Regulations.

5.11 The four complaints to ICO relate to disclosure of information, loss of information and the medium used to transfer information. In two of the four cases, no breach of personal data had occurred. Where the Council was found to have breached personal data then recommendations for improvements were made.

5.12 The reporting and management of information security incidents and personal data breaches also allows the Council to identify areas of vulnerability and information risk, enables the development and introduction of relevant policies, processes, and or training in order to reduce the likelihood of the vulnerability being further exploited and causing a serious breach of the data protection legislation, or affecting the integrity and availability of important information assets.

5.13 Care has been taken to ensure that the cyber security and information compliance areas complement each other when responding to cyber incidents which also affect personal data.

6 Information Requests

6.1 There were 1,295 information requests, covering the Freedom of Information Act (FOI) 2000, Environmental Information Regulations (EIR) 2004, or the General Data Regulations Subject Access Request (SAR) information regimes, this is against 1,420 last year, a decrease of 9%

6.2 The Information Commissioner has indicated that she expects a 90% compliance rate.

Information Regime	Numbers received	Compliance rate	Compliance up or down
FOI	1095	69%	↓ 9%
EIR	118	58%	↓ 25%
SAR	82	29%	↓ 27%

6.3 Where records indicate reasons for non-compliance with FOI/EIR timescales, then

- 63% of non-compliance was due to late provision of information to the Information Compliance Team, by the service Area(s)
- 14% of non-compliance was due to late approval of the drafted response by the Head of Service(s) or their designated deputy
- 20% of non-compliance was due to delays by the Information Compliance Team themselves. Such as large complex requests requiring inspection, redaction and /or decisions over the application of exemptions.

6.4 Based on the above then had the only delays experienced been down the to the Information Compliance Team then the organisational compliance rate for FOI/EIRs could have been around 94%

6.5 Reports detailing reasons for lateness, service area(s) involved and impact of such were reported to Senior Leadership Team for quarters 1 and 2. Lack of resources prevented the same for quarter 3.

- 6.6 The continued decrease of compliance rates can be attributed to.
- Delayed provision of information from the service areas to enable a response to the information requests tasked to them. Going forward both the organisational compliance rate and the reasons for noncompliance will be reported to CIGG and Service KPIs
 - The loss of 40% of Information Compliance Officers (3 out of 5) in the year. Recruitment was further delayed due to COVID 19
 - The ongoing need for internal training in complex information legislation, and which will continue

- Continued checking of draft responses and disclosures prepared by less experienced staff by more experienced officers.
- Absence of dedicated Information Compliance Manager in post for most of the year, which has now been filled.

6.7 Many SARs involve large volumes of files, records, emails, documents etc, which have to be examined and considered for disclosure, redacting information where not appropriate for disclosure or not the personal data of the requester. As such these produce a great deal of printed material, sometimes over four boxes worth of information, or 1,000s of emails.

6.8 The time limits for SARs is one month with an additional two months available in where the case is complex. However, the regulator is clear that volume is not related to complexity.

6.9 Details of complaints over information requests

Complaint to Powys County Council – internal review	36	Complaint made directly to the ICO	7
Over lateness	11		4
Over handling of request	9		3
Application of exemption	16		
ICO involvement in internal review	3		
Outcome – complaint not upheld	9		1
Outcome – complaint upheld	9		5
Outcome – complaint partially upheld	8		
Withdrawn			1
Still under consideration at 31-03-20	10		

6.10 During the year, the Information Compliance Team

- Commenced a project looking to move from a paper-based process of undertaking SARs – this work ceased with the loss of staff from the Team.
- Commenced a project with Business Intelligence to look at automating information request processes and reporting, and service management dashboard reporting – this work continues
- Revisited its tasking and chasing processes in an attempt to obtain information from the service area(s) within timescales.
- Developed staff objectives to improve knowledge and skills in dealing with information requests and personal data breaches.

6.11 A cost analysis exercise of FOI/EIR requests for March 2019 was undertaken, considering the time spent and the likely costs to the organisation. The cost of FOI requests to Powys County Council briefing report is provided at Appendix 3

7 Resources Available

7.1 The Information Compliance Team delivers the majority of the Council's information governance functions, including that of a designated Data Protection Officer, for the Council. All formal information requests are handled, managed, and responded to by the Team. The Team also provides the service of a designated DPO for Schools and other information governance advice under SLA, to every school.

7.2 The Team is to comprise of 5 Information Compliance Officers, 1 Information Compliance Manager, 1 Data Protection Officer Schools, and 1 Professional Lead Data Protection.

7.3 However, 3 of the 5 Information Compliance Officers left, the Information Compliance Manager post has been vacant until March 2020, the Data Protection Officer Schools post has been vacant since March 2020. The Professional Lead Data Protection undertakes both DPO and IG activities, in addition to the roles of Regulation of Investigatory Powers Act 2000 (RIPA) Co-ordinator, and Senior Responsible Officer for Camera Surveillance

7.4 A business case was made for a review of the Team, which identified resources required, and the cost of such, and identified changes possible within current budget. It has been agreed that the review can take place in line with the current budget.

8 Data Protection Officer

8.1 All public authorities are required to have in place a designated Data Protection Officer whose position and tasks are detailed within data protection legislation

8.2 In addition to the provision of advice and support, the DPO undertakes its monitoring responsibilities through reporting processes, working closely with service areas, development of information asset registers which act as records of the Council's processing activities, managing the mandatory assessment of data protection risks for new ways of working or projects (Data Protection Impact Assessment) etc

8.3 The DPO over sees the reporting, investigating and management, of personal data breaches and where the breach is of such seriousness undertakes the necessary investigations.

9 Cyber Security

9.1 The ICT Cyber Security Officer delivers a joint service under the Section 33 agreement with Powys Teaching Health Board.

9.2 In August 2019 the Council achieved Cyber Essentials Plus and IASME accreditations.

9.3 Cyber Essentials is a Government-backed, industry-supported scheme to help organisations protect themselves against common online threats. The

certification enables organisations to reassure customers, partners, and other business that cyber security is taken seriously, with certificate listings presented on the Government's National Cyber Security Centre web pages.

9.4 The Information Assurance for Small to Medium-sized Enterprises (IASME) was designed as a security benchmark enabling organisations to assess the level of their information security maturity, against a set of nationally recognised standards.

9.5 The Major Incident procedures have been approved, which advise on the response to and the management of any major ICT systems incidents, and which are aligned to the revision of the Information Security Incidents procedures which cover breaches of personal data.

9.6 The cyber response plan is in the process of being drafted which will then complement the above procedures, and will also outline the steps to be taken to prevent cyber-attacks, detection processes, and the procedures to be followed should these attacks occur.

9.7 Establishment of closer working relationships with Civil Contingencies and Emergency Planning Officers for the purposes of response to major ICT incidents, which may affect the wider organisation such as cyber security attacks, or emergency situations. Including joint attendance at nationally organised multi agency cyber exercises.

10 Schools DPO Service

10.1 The Information Compliance Team also deliver DPO duties and IG support for each of the Schools in Powys, rather than each having to designate their own DPOs.

10.2 Again, this has consisted of advice, checking on fee payments, management of personal data breach processes, DPIAs. The DPO Schools has also undertaken a range of audits in respect of a school's compliance with data protection legislation with findings being fed back to the school.

10.3 The DPO Schools post has been vacant since March 2020, with the duties being shared between the Information Compliance Manager and the Professional Lead Data Protection.

11 Information Management Service

11.1 The service delivers the secure storage of the Council's inactive hard copy records, and information will be provided as soon as possible. The service is currently experiencing reduced capacities due to the current situation once staff return from redeployment due to COVID 19 work. CIGG have been made aware of the difficulties

12 Conclusion

12.1 Powys County Council continues to take steps to progress and improve its information management, assurance and governance policies, procedures, and practices. The work being undertaken towards compliance with data protection legislation and other information legislative regimes must continue, in order to reduce information risk, likelihood of regulatory action, and to support the Council's vision of being an open and enterprising Council.

12.2 Falling information request compliance rates, increases the organisational risk of regulatory action, which is not purely attributable to the Information Compliance Team and requires a corporate response in order to improve those compliance rates, taking into account any decreases of information requests due to Covid and also planning and monitoring of recovery by CIGG

12.3 The ability to retain staff within the Information Compliance Team is vital in order for all team members to be able deliver a range of IG services to the Council and Schools, thus releasing more senior team members to concentrate on delivering new IG initiatives and projects.

12.4 Personal data is intrinsic to much of the Council's activities, and public trust and confidence in the organisation's ability to manage and use their information appropriately is essential.

12.5 Staff awareness of information governance and compliance matters continues to improve, with a resultant rise in enquiries, requests for complex advice, and the nature and types of information security incidents being reported

12.6 Senior Information Risk Owner's statement of assurance.

Partial Assurance - We are able to offer partial assurance that the council's arrangements adequately reflect the principles of good information governance. Some key risks are not well managed, and processes require the introduction or improvement of internal controls to ensure effective governance, but plans for future improvement are in place and are monitored by CIGG

13 Planned Activity 2020-2021

- Continue the review of the Information Compliance Team, including roles, grades, and numbers to take place, in line with budget limits.
- Recruitment of vacant posts to recommence – (*this was stalled due to COVID 19*)
- Introduce new measures identifying reasons for FOI& EIR noncompliance
- Recommence electronic SAR project
- Continue automation of information requests processes and reporting, including automated chasing and recording of non-compliance rates and reasons, and provision of information directly to management dashboards
- Continue to monitor training compliance rates utilising escalation processes, where necessary

- Progress, with Business Intelligence, the publication of self-service data sets, based on regularly asked FOIs.
- Continued implementation of IMAG plan
- Continue close working relationships with cyber security staff to ensure both technical security standards and information governance issues are addressed in tandem

14. Legal implications

- 14.1 Legal; the recommendations can be supported from a legal point of view
- 14.2 The Head of Legal and Democratic Services (Monitoring Officer) notes the report and has nothing further to add.

15. Data Protection

- 15.1 The Data Protection Officer notes the content of this report and has nothing further to add.

16. Comment from local member(s)

- 16.1 NA

17. Integrated Impact Assessment

- 17.1 NA

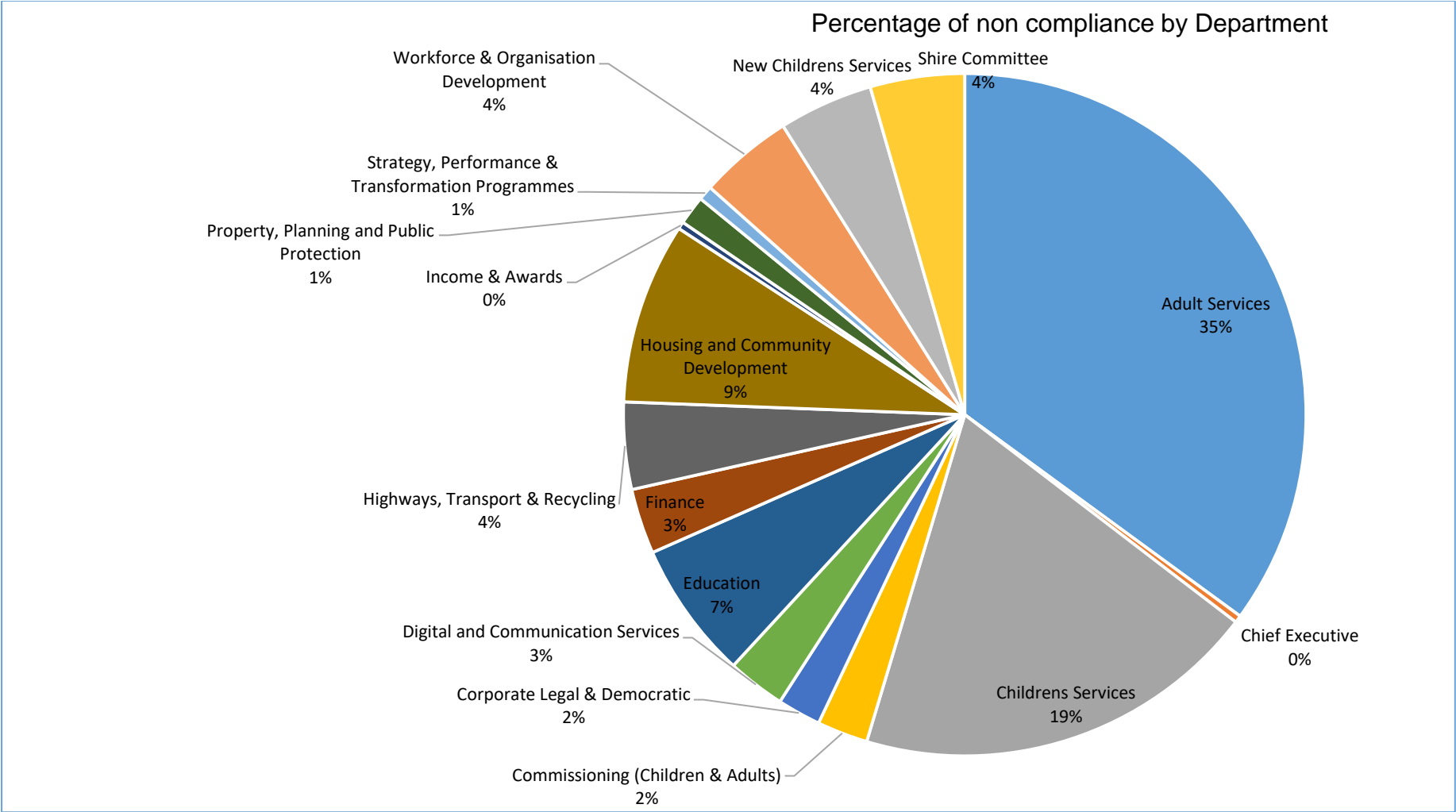
18. Recommendation

- 18.1 Cabinet notes the assurance set out in 12. 6 and the planned activity for 2020-2021 as set out in paragraph 13.

Contact Officer: Helen Dolman
Tel: 015697 826400
Email: helen.dolman@powys.gov.uk
Head of Service: Diane Reynolds
Corporate Director: Ness Young

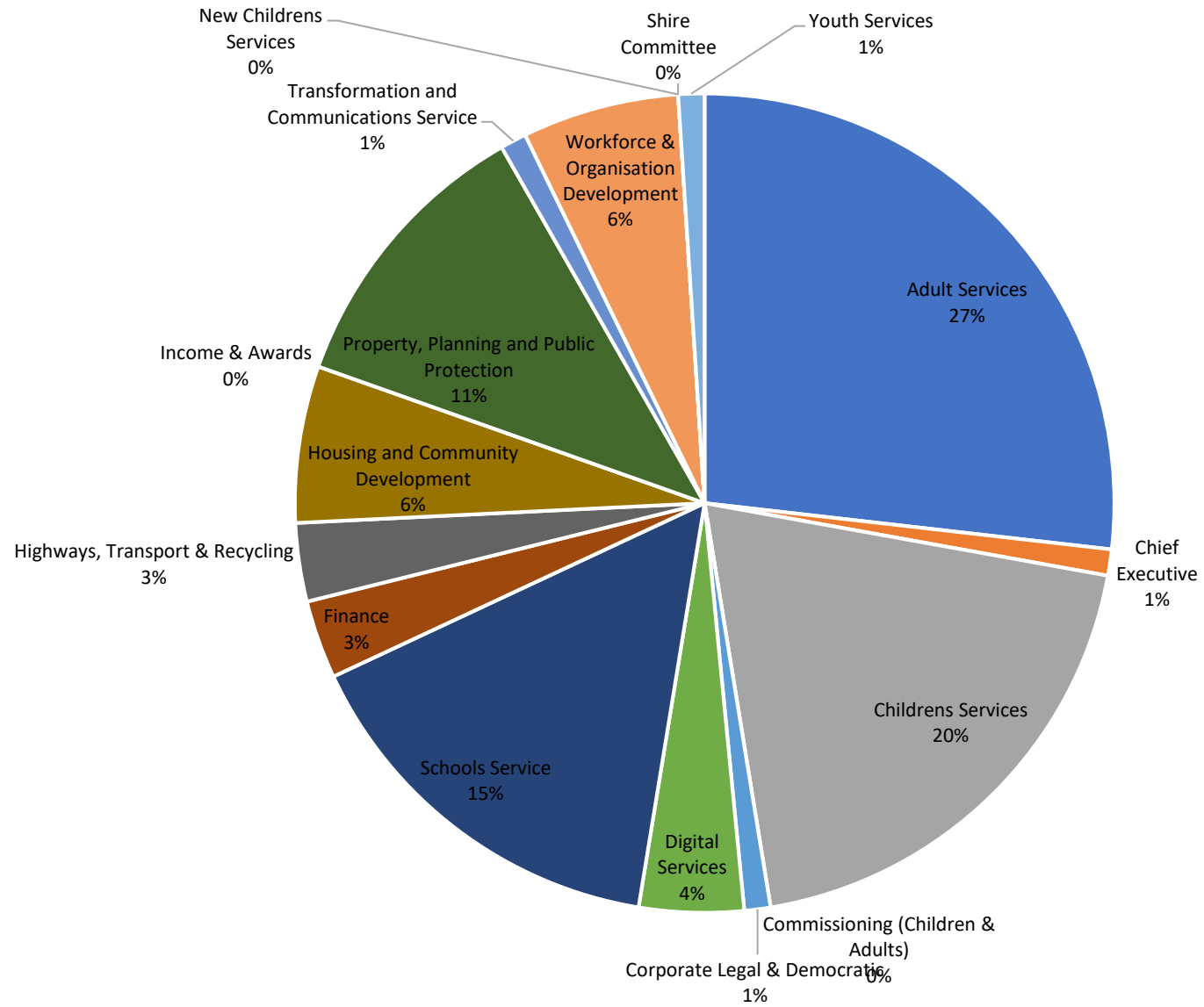
ICO enforcement training April 2019

Tudalen 35



ICO enforcement training March 2020

Tudalen 36



Information security incident breakdown

Service Area	Numbers of incidents
Adult Services	24
Business Support	1
Catering & Cleaning	3
Childrens & Adults	2
Childrens Services	45
Commissioning	2
Community Safety Partnership	1
Corporate	2
Customer Services	3
Development Control	17
Digital Services	16
Employment Services	10
Environmental Health	3
Finance	3
Housing	9
HTR	2
Human Resources	10
Income & Awards	21
Legal and Democratic services	6
Members	1
Not Known	6
Occupational Health	2
Other controllers	14
Powys Registrations	1
Powys Youth Justice	2
Property Services	3
Schools Services	17
Trading Standards	3
Transport	1
Waste	2
Workforce	1

Type of Incident	Numbers
Complaint	17
Cyber	1
Inappropriate access	3
Information Rights	3
Integrity of Information	12
Loss of information/equipment	12
Misdirected external email	16
Misdirected internal email	26
Mis-handling information	19
Printers	19
Unauthorised disclosure	102

Cost of Freedom of Information requests

The cost of Freedom of Information requests made to the Council has been raised on many occasions, and with local authorities handling requests differently there is little information available as to the true costs of responding to FOIs.

In an attempt to establish some costings, the Information Compliance team undertook an exercise in early 2019, as to the time taken on each step of the process in handling a FOI request.

These steps, being the time taken to

- Undertake request administration
- Provide assistance and advice on requests
- Task the request to the service area
- Locate the information
- Retrieve the information
- Extract the information
- Gather information
- Research
- Draft response
- Check draft response
- Carry out Head of Service Checks

Service areas were requested to complete cost analysis sheets for each request tasked to them. However, the responses received from the service areas was very limited. 115 requests and only 16 response.

As such, multipliers were then attributed to the figures provided to develop appropriate data for each task, based upon the average of time taken per task.

Based upon the data received and the multipliers used then it can be determined that approximately 528 hours were spent by staff of Powys County Council dealing with FOIs in March 2019

In terms of cost then this would be based upon the pay scale of each member of staff involved. However, the grades of staff dealing with FOIs vary between Grade 5 to HoS at Senior Manager grade.

In applying the cost limit to a FOI request to consider if it exceeds costs under the Appropriate Fees and Limits Regs then the figure of £25 per hour is used; as such using this same hourly rate this then equates to

- £13,196 cost for the month of March, (at 115 requests for the month) or
- £158,400 for the year, based on the above (115 x12) or
- £144,585 for the year using the numbers of FOIs received in 2018 (1260 received)
- £114.75 per request.
- Each request taking an average of just over 4 ½ hours work

A report from MySociety.org¹ into FOIs, stated that “Examining over 250 responses from councils on WhatDoTheyKnow² shows the difficulty in trying to find a cost per FOI requests. Itemised values range from £12 to £450”

Caveat

With the low number of responses provided then the data can only be based on that received and multiplied accordingly to obtain an overall monthly figure. To develop more precise figures, would require a greater level of information from the service area, and can only be based upon that information supplied.

¹ <https://research.mysociety.org/publications/freedom-information-local-government>

² <https://www.whatdotheyknow.com/>