

# Information Governance Annual Report 2022/2023

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<b>Date</b>	18/09/2023
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<b>Date</b>	

## **Background**

The Council has a statutory requirement to look after the data it holds in line with General Data Protection Regulation (GDPR) and the associated Data Protection Act 2018 including allowing data subjects to enact their rights under the legislation such as the right to access their files. In addition the Council has a statutory responsibility to permit access to information under the Freedom of Information Act (FOI).

Under the legislation the regulator, the Information Commissioner's Office (ICO) has powers to take enforcement action such as reprimands and fines to any organisations that are not fulfilling their obligations. These can be as a consequence of data breaches, failure to allow to data subjects to enact their rights or poor performance in providing information under FOI. The ICO have recently issued an enforcement notice to a Council in England for its poor handling of Freedom of Information Act requests requiring action to address what has resulted in 143 FOI requests remaining unanswered until the time of the ICO investigation. Similarly, two other Councils in England have also been subject to reprimands in recent months from the ICO after responding to only 51% and 75% of Subject Access Request (SAR) requests within the permitted 30 calendar days in a 12 month period.

Consequently it is imperative that Blaenau Gwent monitors its performance in these areas in order to ensure it is not subjected to enforcement action or reprimands from the ICO and is meeting its obligations under the legislation.

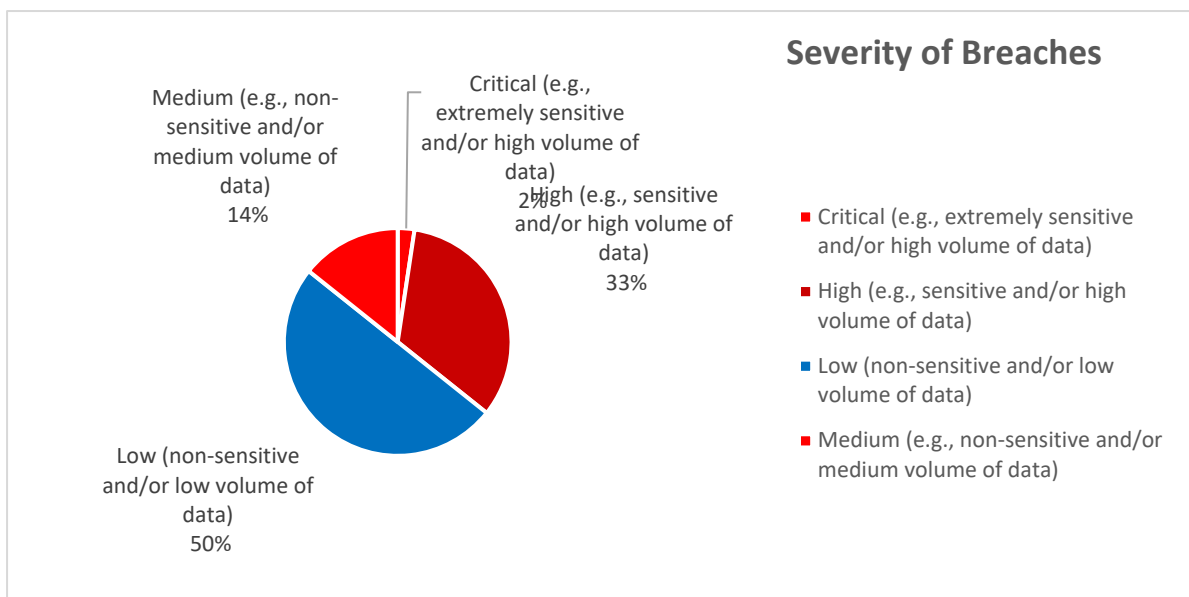
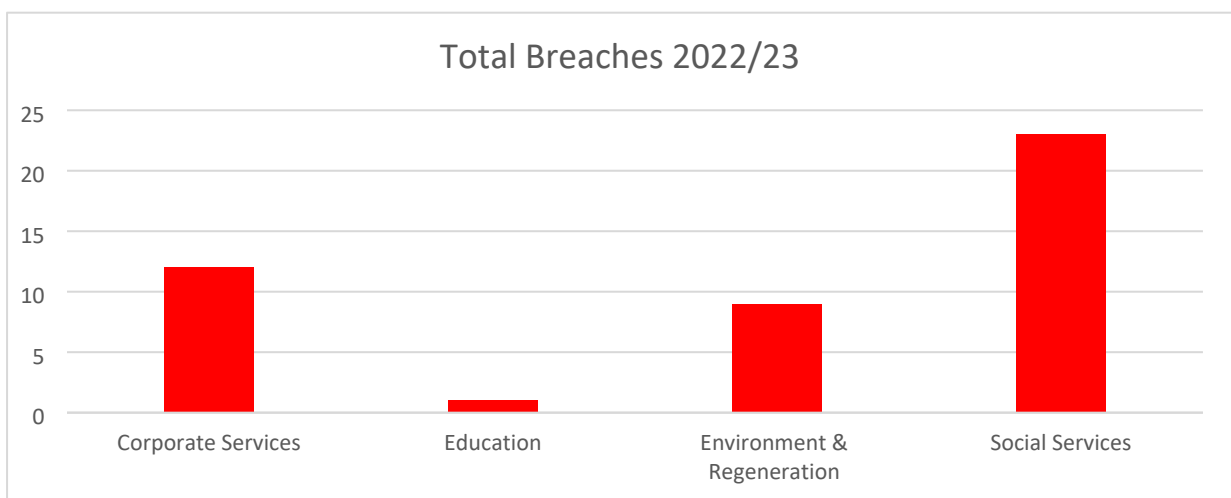
## **Data Breaches**

In total, the Council suffered 45 recorded Data Breaches during the 2022/2023 period which are split between directorates as illustrated below. This has increased from 37 Data Breaches in the 2021/2022 period.

The Council has previously created a Data Breach Handling Procedure in line with its GDPR and Data Protection legislation obligations which it follows for every data breach identified. This procedure focuses on four key elements as follows:

1. Containment and recovery
2. Assessment of ongoing risk
3. Notification of breach
4. Evaluation and response

As part of this procedure all data breaches that involve special category (sensitive) personal data or a high volume of data, the Council’s Data Breach Panel will convene to consider the necessary actions. Of the 45 Data Breaches suffered during the year it was decided by the Data Breach Panel that one exceeded the threshold to the report to the ICO for assessment. It was later decided by the ICO that no enforcement action was required regarding this particular breach although some recommendations were made which have since been implemented corporately.



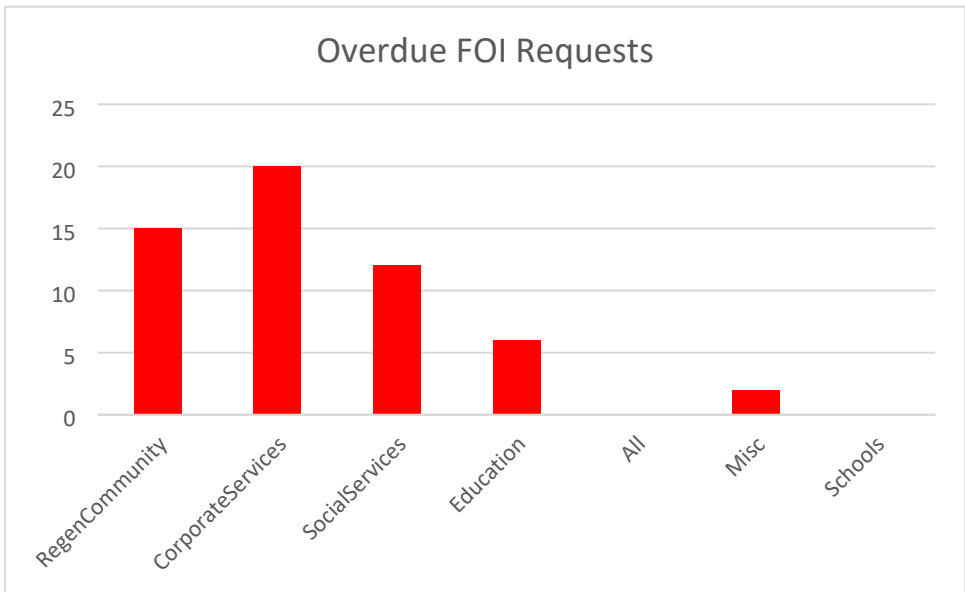
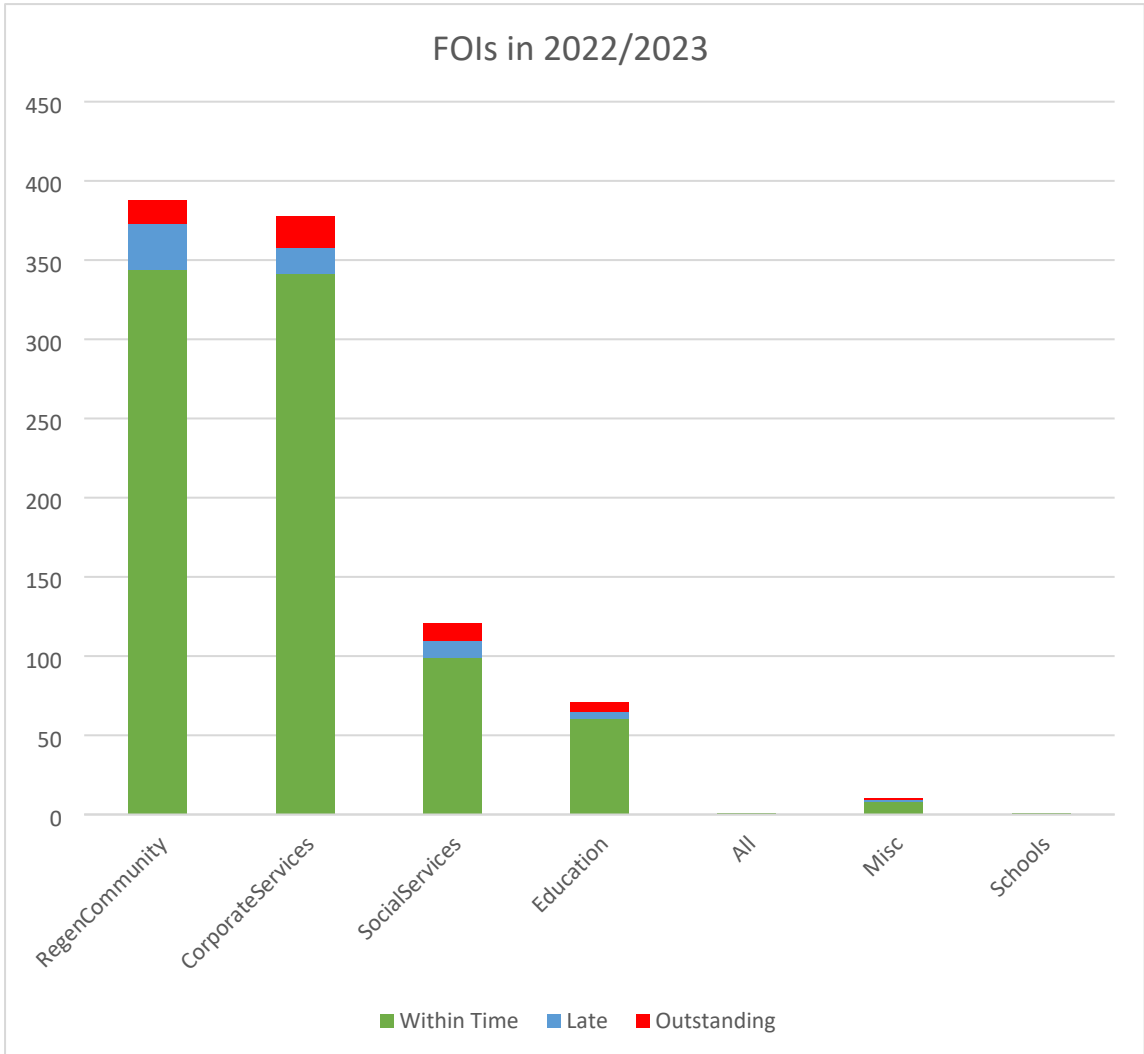
**FOI Requests**

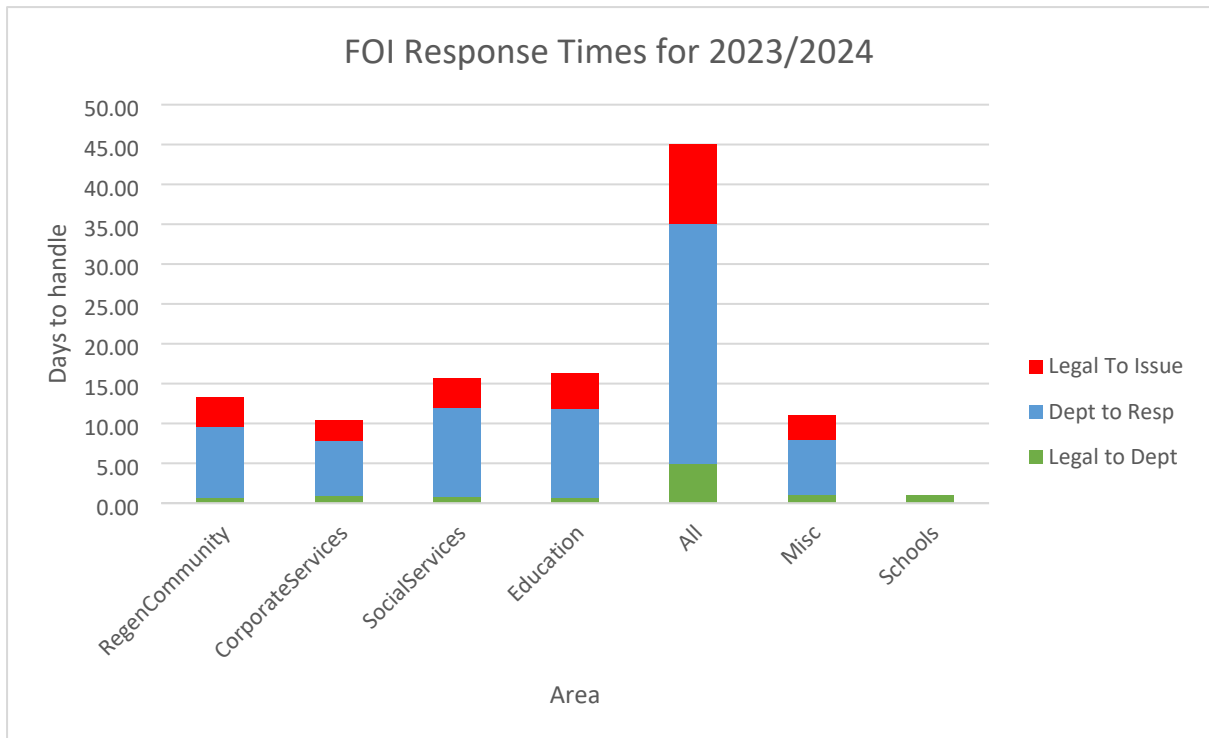
During the 2022/2023 period Blaenau Gwent received a total of 978 FOI requests. This is up 13% from the previous year where 863 requests were received and over recent years has increased by roughly 10% year on year. Under the legislation the Council is required to respond to FOIs within 20 working days. Within the legislation there is not an expected success rate stipulated in the legislation since all FOIs should be responded to within this timeframe. However, whilst no accepted level is stated with the legislation the Information Commissioner's Officer (ICO) who oversee the Freedom of Information Act have indicated in their self-assessment guidance that over 95% would be considered good, 90-95% acceptable and below 90% unacceptable.

Throughout 2022/2023 the Council has dipped below these levels and seen 88% of FOIs throughout the Council responded to within the allocated 20 days. Of the 12% that have not met the requirement, 6.4% (62 requests) have been provided late and 5.6% (55 requests) remain un-responded to as of 9<sup>th</sup> June 2023 when the reports were run but are since being addressed at the time of writing this report.

Despite falling beneath the expected response levels the response times on based on averages are positive. The average FOI received is responded to within 12.67 working days when the permitted limit is 20 working days. This comprises of 0.78 days for Legal to relay the request to the department, 8.57 working days for the department to compile and respond and then 3.32 working days for Legal to check and send. However, these figures do not take into account the 55 outstanding requests due to current restrictions in the reporting functionality and therefore only consider concluded FOI requests. With some of the un-concluded requests dating back a number of months the response times in Figure 5 below would negatively change if the outstanding requests were able to be included in the calculations.

With the recent ICO ruling leading to enforcement action for an English Council (with over 143 outstanding FOI requests) this is obviously a concern. Where requests have been received but no response has been provided by the department a reminder is sent on approximately the 15<sup>th</sup> working day leaving around a week for the department to respond.





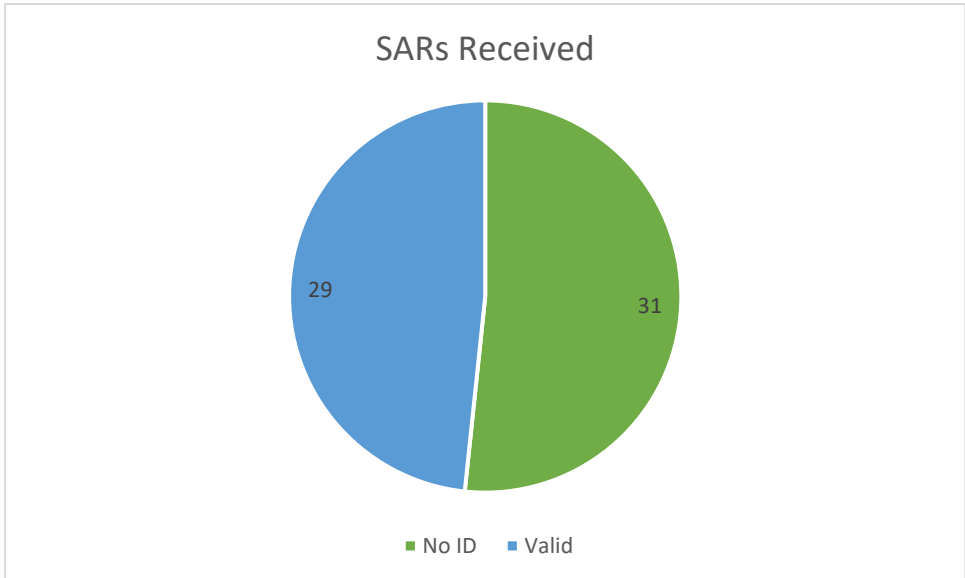
### **Subject Access Requests**

Under the GDPR and Data Protection Legislation an individual has a number of rights. One of these is the Right to Access which means that they have the right to obtain a copy of all information held about them subject to any exemptions detailed within the legislation. This is commonly known as a Subject Access Request (SAR) and entitles the requester to have a copy of all documents that relate to them and are held by an organisation unless an exemption allows for the information to be withheld.

During 2022/2023 Blaenau Gwent received a total of 60 Subject Access Requests over the course of the year in comparison to 54 the previous year. This represents a 10% increase in requests.

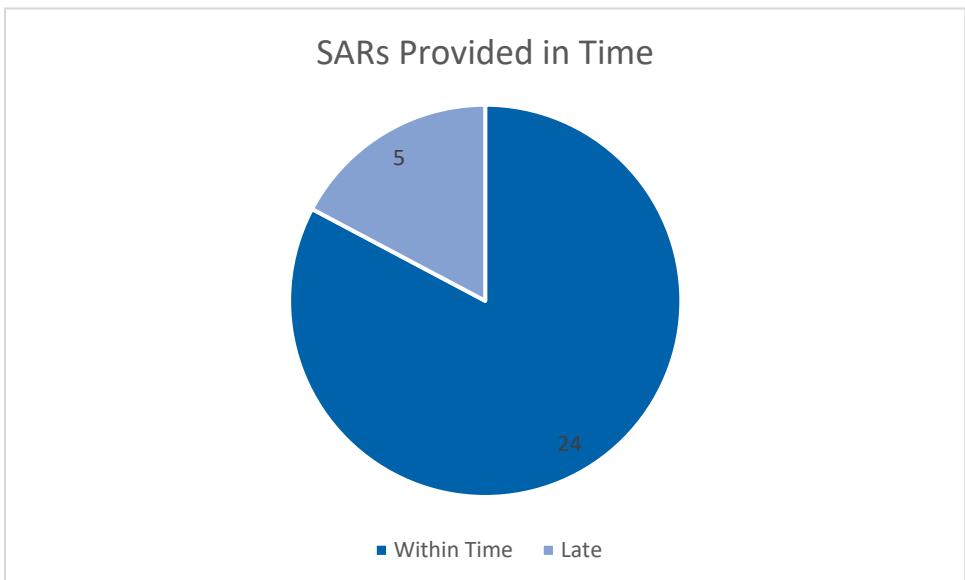
Before releasing information to a requestor, in order to maintain security, we are required to ensure that each request is entitled to receive the information before we can consider it a valid request. To do this we ask to see ID from a requestor but not all requestors provide this and the request never becomes considered “valid”. Of the 60 Subject Access Requests received during 2022/2023 only 29 provided the necessary ID in order to be considered a valid request.

Whilst 29 appears to be a low number when compared with many other services in the Council, these requests are typically for a person’s entire file within a service or across multiple services totalling hundreds of pages. As it is necessary to check each page and ensure no breaches of information occur the checking work can take a significant amount of time and impact departments greatly.

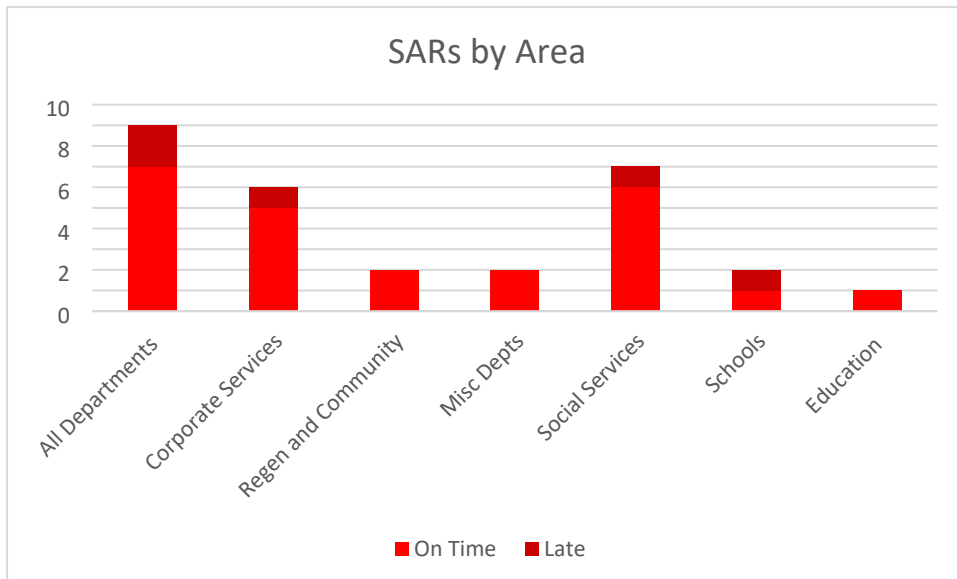


Once a request becomes valid the Council has 30 calendar days, under the legislation, to provide copies of the requested information. This can be extended a further 60 days for complex requests, however this requires that the Council is able to justify why it is complex and therefore requires an understanding of the file first.

For the 2022/2023 period Blaenau Gwent achieved 83% of Subject Access Requests being responded to within the allotted time. In percentage terms this is much lower than the 90-95% that we strive towards however the low numbers have a greater impact on ratios and percentages so it is not an entirely fair representation.



Looking at how Subject Access Requests are split across Service Areas produces largely expected results. Most requests are across the Social Services area and Corporate Services due to requesters wanting access to Social Services files and/or employment records.



### **Forward Plans**

The volumes dealt with on all of the areas reported on have increased by roughly 10% year on year in recent years which has created additional pressures on departments which cannot be avoided. Despite this the response times for complete, despite falling beneath the recommended levels, have fallen at a slower rate than a 10% increase would normally enforce. However, in order to address the decline in response rates additional measures have now been implemented to address this and improve performances further. These measures include a quarterly report to Director level detailing the outstanding requests for both FOI and Subject Access Requests for their area. In addition, as standard Senior Managers and Directors will be included in the reminders sent regarding requests to allow them time to intervene before any deadlines expire. It is hoped that this will allow us to address the proportion of un-responded requests which will in turn create improvements to the response rates and allow them to increase back above the targeted levels.

The Data Protection Officer continues to monitor data breaches closely and identify any trends or weaknesses that occur. Where these are identified recommendations and measures are made to minimise the chances of recurrence of these incidents.