

## Response to New Legislation

- Freedom of Information Act 2000

## Isle of Wight Council

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<b>Reference:</b>	– Draft Version 1
<b>Date:</b>	May 2003

## Introduction

The Government's public sector modernisation drive includes three interlocking strategies: the open government agenda; the requirement for joined up government and the move to e-government. The key component is information, to be shared between authorities to improve services, and to be made readily available to the citizen.

However, the Government has concerns about the management and quality of information and records within public services following widely publicised failures in Social Services Departments, the Criminal Records Bureau and the NHS.

Existing legislation, notably the Local Government Act 1972 and the Local Government (Access to Information) Act 1985 already place a duty upon local authorities to uphold standards in maintaining their records.

Section 46 of the Freedom of Information Act 2000 introduced The Code of Practice on the Management of Records by Public Authorities. This was issued as a best practice document in January 2001 but from 30 November 2002, it became part of the Act insofar as breaches of the Code reported to the Information Commissioner will be investigated similarly to any other breach of the Act.

Paragraph 5 sums up the ethos of the Code:

'The records management function should be recognised as a specific corporate programme within an Authority and should receive the necessary levels of organisational support to ensure effectiveness. It should bring together responsibilities for records in all formats, including electronic records, throughout their life cycle, from planning and creation through to ultimate disposal. It should have clearly defined responsibilities and objectives, and the resources to achieve them. It is desirable that the person, or persons, responsible for the records management function should also have either direct responsibility or an organisational connection with the person or persons responsible for freedom of information, data protection and other information management issues.'

The Government has laid out its aims to take the information policy a stage further in the Performance and Innovation Unit paper – Privacy and Data-sharing, which addresses the issues of management arrangements in relation to corporate data, data quality, security and data-sharing between public authorities.

The effect of this developing agenda is to draw together records and information management, Freedom of Information, Data Protection and elements of e-government planning within a corporate framework.

Within the Isle of Wight Council the senior officer responsible for Information Management, Data Protection and Freedom of Information is the Head of Legal and Democratic Services.

## Scope and objectives

The objective of this review is to:

- assess the current arrangements for Records Management
- review the arrangements currently in place for managing Freedom of Information
- assure that all necessary steps were followed in the production of the publication scheme
- identify how control is exercised over information subject to the Data Protection and Freedom of Information Acts
- review compliance with the Code of Practise on the Management of Records

- to identify how far the Council's approach to the recommendations of the Privacy and Data-Sharing report
- agree a series of action points to be addressed.

The criteria listed will form the basis of a 'baseline' assessment of the Council's current compliance with the legislation and its associated best practice guidance.

Progress against the Action Plan will be measured between now and the key implementation date of 1 January 2005.

### Audit approach

The approach adopted has been as follows:

- review of arrangements involving members of staff responsible for Record Management, Data Protection and Freedom of Information
- review of current policies
- review of the current documentation, including project team meetings and reports on progress
- overall evaluation of the current position of the Council using a structured scoring mechanism.

This will be followed by monitoring of progress by comparison with targets produced from the Model Action Plan produced by the Public Records Office and the recommendations of the Privacy and Data-sharing report.

### Main conclusions

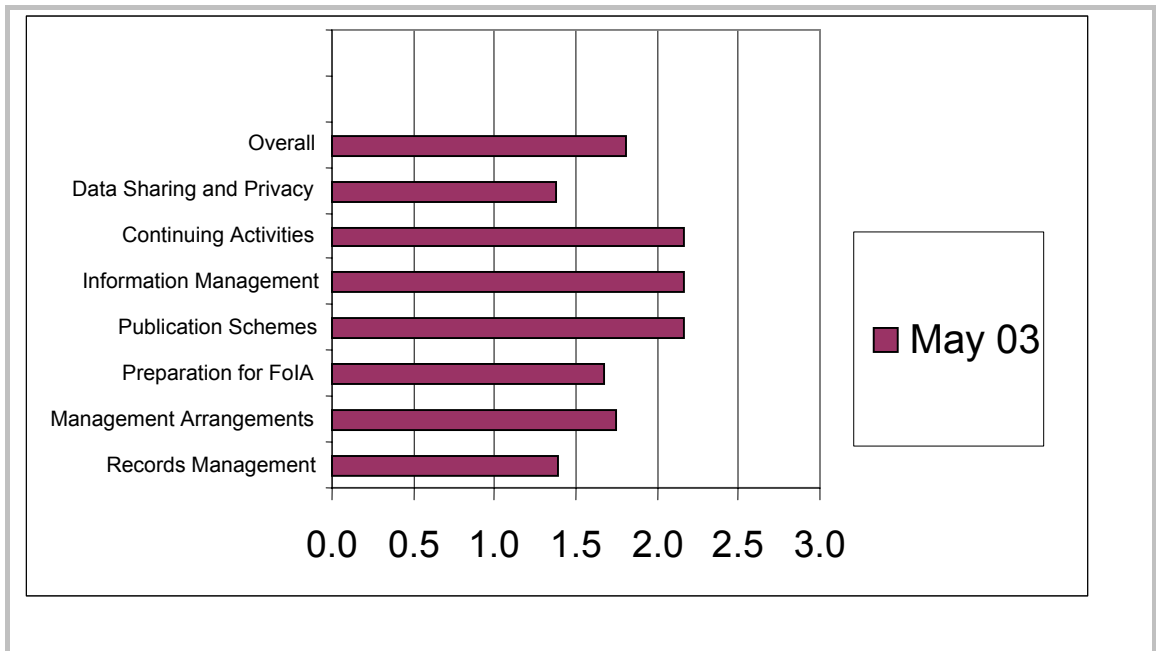
The Council has been proactive in supporting an internal survey of record management processes and allocating funding to the Legal Department to establish an Information Management team this financial year. The Council is also proposing the business case for the purchase of an electronic record management system with implementation planned for December 2003.

The Council has achieved its first target of producing a Publication Scheme. It is, however, important to recognise that this is only the first step in complying with the Act, its accompanying Codes of Practice and the information agenda outlined in the Privacy and Data Sharing report. The further work that is required between now and 1 January 2005 will need more focused project management, bringing together records management, IMT and HR to ensure preparation is fully co-ordinated and communicated. Progress to date against seven key aspects of the agenda is shown in Exhibit 1 and will be discussed later in this report.

As illustrated in Exhibit 2 overleaf, the Council has made greater progress than the average of fourteen unitary authorities reviewed to date. The "target" position represents where the Information Commissioner would expect Authorities to be in May 2003 in preparing for full compliance with the Act.

#### EXHIBIT 1 ILLUSTRATION OF PROGRESS MADE BY ISLE OF WIGHT COUNCIL

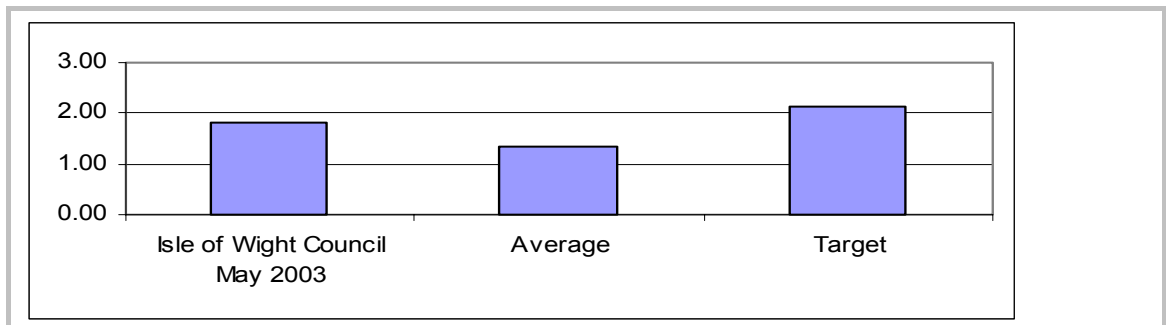
**As can be seen below the Council has performed well in positioning itself for production of the Publication Scheme but now needs to address the longer term requirements of the Act and the information agenda.**



Source Audit Commission national database

**EXHIBIT 2 PROGRESS ON COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT 2000**

**The Council has been proactive in preparing for the Act. More co-ordinated project planning is now needed to progress activities to meet the wider requirements of the Act and the Information Agenda.**



Source Audit Commission national database

**The records management function**

The records management function should be a specific corporate programme within a Council covering responsibilities for records in all formats throughout their life cycle. Recent legislation and policy statements show the growing concern for the quality and security of the information and a desire to develop more effective methods of data sharing between public services to enable delivery of the Joined-up Government initiative.

This requires a greater focus on records management which includes live, as well as archived, information across the Council. The need for a Records Management Policy has been identified by the Council and should be progressed as part of a corporate Records Management programme.

## **Management arrangements for freedom of information**

It is a recommendation of the Privacy and Data sharing report that responsibility for records management, Data Protection and Freedom of Information should be the responsibility of one senior officer.

The Council has allocated responsibility accordingly and is planning to recruit staff to operationally manage this service section. Managing a formalised project plan, to ensure full compliance with the Act, is intended to be the responsibility of an Information Officer once this role has been appointed.

## **Preparation for Freedom of Information**

Some tasks associated with the preparations for the Act have not been completed. The review of record keeping systems within the Council is underway and not due for completion until next year and the information that is shared with partners still needs to be identified corporately. In addition a Records Management Policy needs to be agreed.

## **Publication Scheme**

The Publication Scheme has been approved and is on the Isle of Wight website.

When the scheme is next reviewed we would recommend improving access to the scheme on the web as it is hard to find and also access to documents which are frequently quoted as via hard copy only. Consideration will also need to be given corporately to retention and disposal protocols. All these requirements will need to be factored into the project plan.

## **Information management system**

As a result of recent legislation, data will have differing legal status, including exempt or non-exempt, personal data or sensitive personal data, shared or jointly controlled.

The Council now needs to ensure its Information Management project captures all aspects of the information agenda through improved co-ordination with relevant services.

## **Continuing activities**

Tasks will need to be undertaken between now and 1 January 2005 and should be in the project plan and costed. Progress has been made on some of these but induction guidance on Freedom of Information and Records Management is required. A management performance review of the records management function should also be planned.

## **Privacy and data-sharing**

The 18 relevant recommendations of the Privacy and Data sharing report have the overall implementation date of January 2005. The Council will need to ensure Senior Officers are familiar with the recommendations of this report and include them into the overall Information Management project plan.

## **The way forward**

The Government's information agenda is developing at a fast rate. The Council needs to keep abreast of the policies being issued by the Lord Chancellor's Office.

The Action Plan attached identifies the tasks that will need to be completed to ensure compliance with the Act and the Code of Practice, and to ensure that the Council is prepared to meet the recommendations of the Privacy and Data Sharing report.

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### **Acknowledgement**

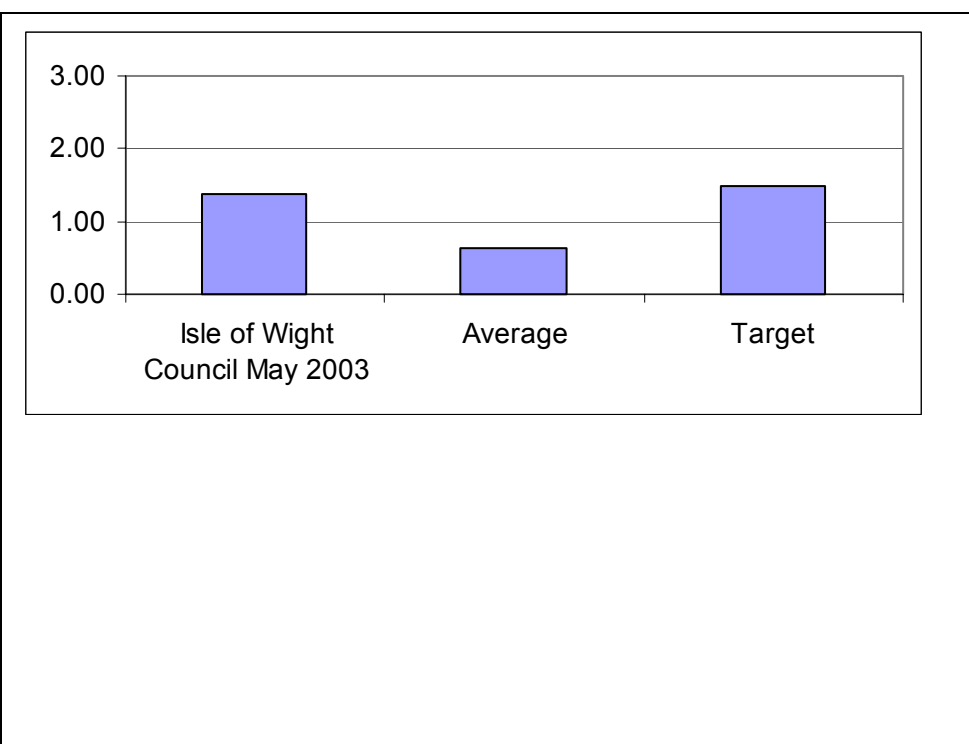
We would like to thank the officers of Isle of Wight Council in the completion of this review.

### **Status of our reports to the Council**

*Our reports are prepared in the context of the Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission. Reports are prepared by appointed auditors and addressed to Members or officers. They are prepared for the sole use of the audited body, and no responsibility is taken by auditors to any Member or officer in their individual capacity, or to any third party.*

## The records management function

**Good practice requirement:** The Section 46 Code of Practice states that 'any freedom of information is only as good as the quality of records to which it provides access'. The Action Plan that accompanies the Code expected that local authorities undertook a review of their Record Management functions; staff numbers and skills; appointed a senior officer to have responsibility; updated and disseminated its records policy and activated active records management prior to starting work on the Freedom of Information Publication scheme. Where this was not done, the issues should be addressed as soon as possible



### Progress made to date:

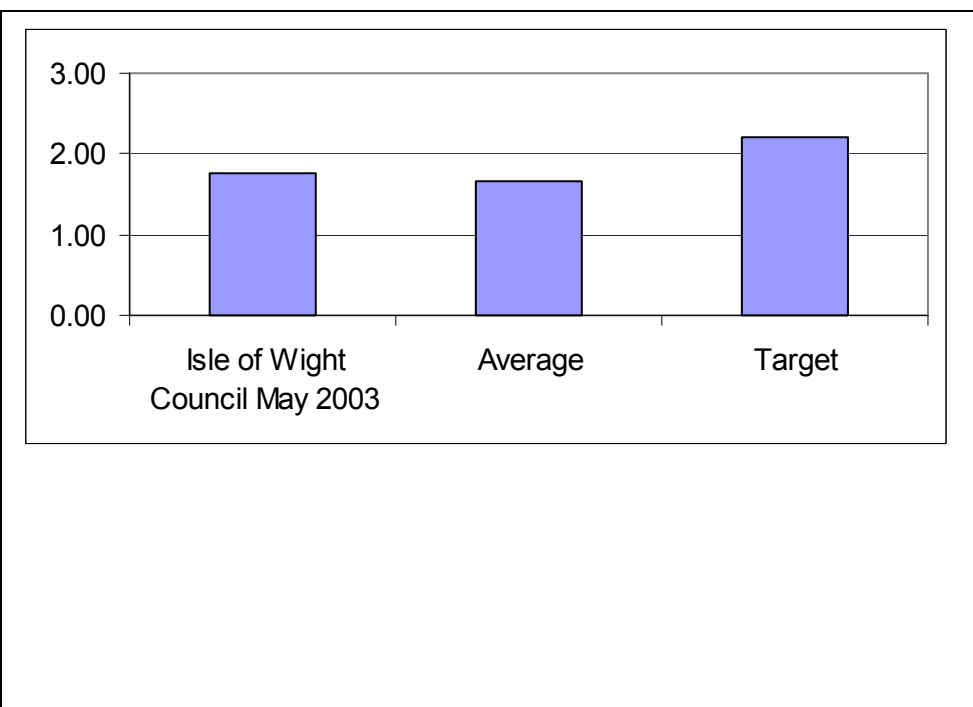
- Responsibility for Records Management lies with the Head of Legal and Democratic Services who reports to the Strategic Director of Corporate and Environment Services. The latter has overall responsibility for the Publication Scheme.
- Funding has been allocated to resource a new post of Information Manager. This post will be supported by a team of two staff.
- A two-year review of current records management practices is underway, which is raising issues as well as increasing awareness of the Act.

### Action still required:

- Communicate the lead role in records management throughout the Council
- A Records Management Policy covering requirements of the Code.
- Update job specifications to include record management responsibilities.
- Communication of a corporate programme for records management.

## Management arrangements

**Good practice requirement:** The management arrangements that should be in place to support Freedom of Information need to include a policy showing corporate ownership, a defined project with co-ordination across all directorates with regular upward reporting to the Management Team. The project requires sufficient resource and requires plans with clear milestones extending to 2005. A senior officer should have overall responsibility for Data Protection, Freedom of Information and Records Management.



### Progress made to date:

- Ownership for the management of Freedom of Information has been allocated to the Head of Legal and Democratic Services who has responsibility for Data Protection, Records Management and Freedom of Information combined.
- Ongoing project management is on hold now until the Information Manager has been appointed.
- Funding has been allocated in the 2003/4 budget to progress the project

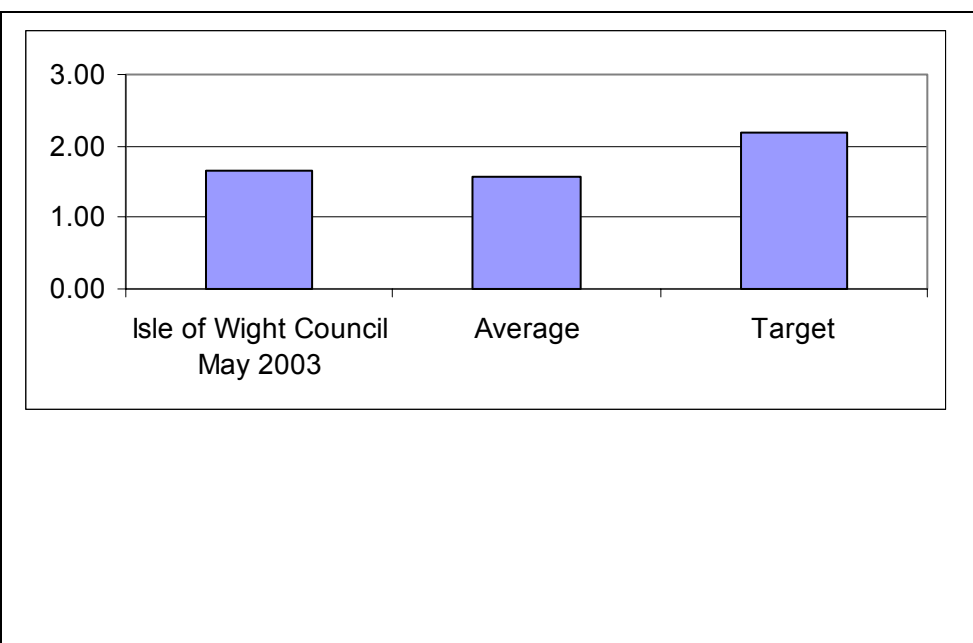
### Actions still required:

- Freedom of Information Policy.
- Appointment of Information manager and/or project progressed with appropriate objectives, milestones and timescales. Plans and budgets to 2005 need to be prepared.
- Co-ordinate a corporate programme to ensure compliance is achieved and maintained beyond the statutory deadlines



## Preparation for Freedom of Information

**Good practice requirement:** in preparing for the Freedom of Information Act a number of actions should have been undertaken. These include an analysis of the benefits of this exercise, possibly in relation to e-government planning, assessment of likely demand, identifying information already given out, a review of existing data sharing initiatives, review of existing record keeping systems and electronic records.



### Progress made to date:

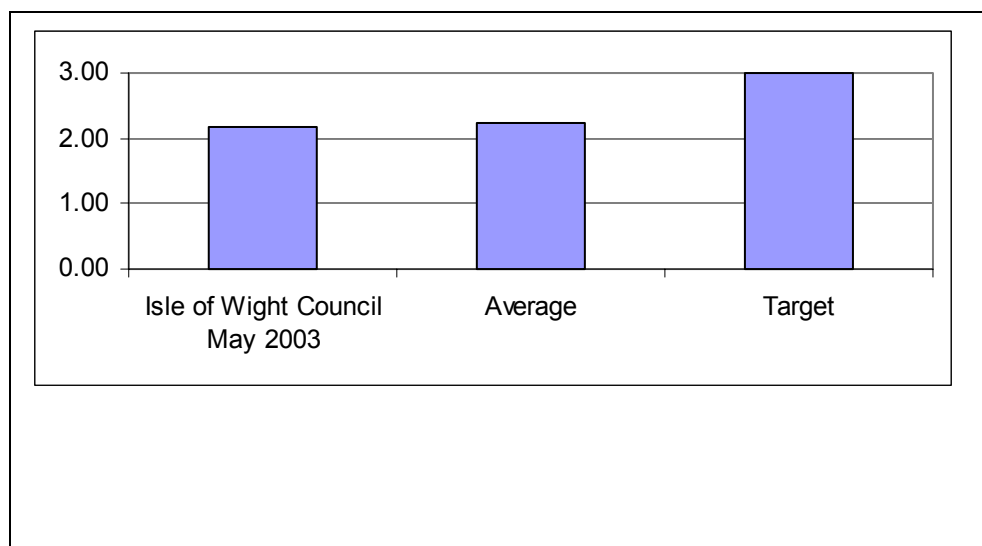
- Web-based publication scheme produced that includes information that was listed as available to the public.
- Third of the way through comprehensively reviewing authorities existing record keeping systems
- Weaknesses have been partially identified in the current (departmental) record keeping procedures. Overall plan to move to electronic system.
- Some anecdotal evidence of baseline level of demand and some assessment of issues that required legal input.

### Actions still required:

- Complete review of existing record keeping systems
- Identify corporately all information shared with partners.

## Publication Scheme

**Good practice requirement:** Production of an acceptable Publication Scheme requires a number of tasks to be completed. The more obvious are the audit of data held, the division of the data identified into classes and the application, where appropriate, of the exemptions. However the application of a corporate retention and disposal policy is necessary to ensure that inappropriate destruction of information listed in the Publication Scheme does not occur. The acceptability of a scheme may also be dependent on whether the Commissioners guidance has been followed. The Lord Chancellor has announced plans to widen the requirements of the Publication scheme to include details of data sharing initiatives and further details of data held.



### Progress made to date:

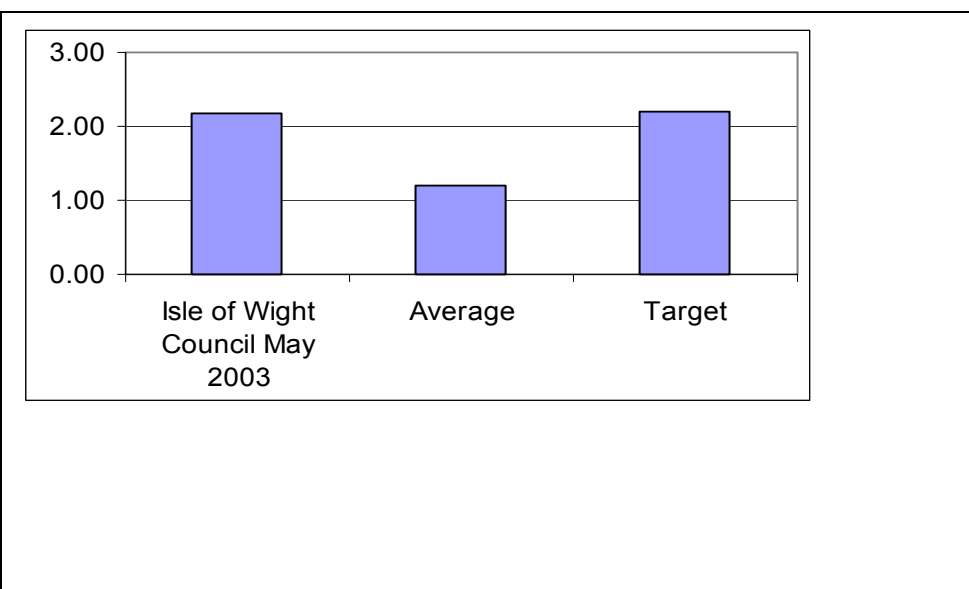
- Classes and exemptions identified.
- Commissioner's guidance followed.

### Actions still required:

- Progress widening the Publication Scheme to include more detail.
- Improving "signposting" to the scheme on the web. Public access to documents could be improved; they are frequently accessible as hard copy only.
- Complete data audit.
- Complete work on corporate retention and disposal policy.
- List current exemptions.

## Information management system

**Good practice requirement:** The Freedom of Information and Data Protection legislation has created different types of information, personal data, sensitive personal data, publishable information and exempt information. There is a growing need for authorities to identify data that is to be shared with others and the Standard for Information Security Management, BS7799, which is mandatory in Health, Police and Probation, and which the Lord Chancellor wishes to make mandatory in Local Government, also requires a data classification. Authorities now need to have information about their information.



### Progress made to date:

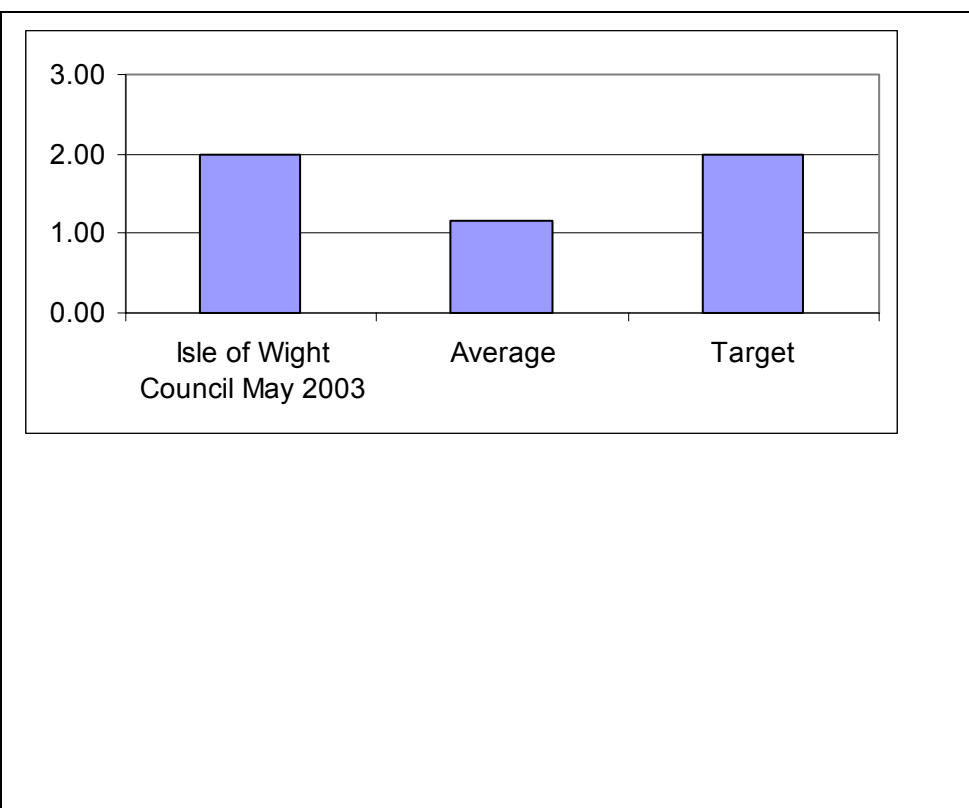
- Corporate website holding Publication Scheme.
- Process for logging FoI enquiries has been considered. (Ombudsman enquiry system is to be used by the Information Officer). This will be replaced by IMT system once purchased.
- Current business unit systems provide for indexing, referencing and if necessary security marking files.
- Information Management project underway – Customer Relations Management System

### Actions still required:

- Managing the Information Management project to ensure records management, IMT, corporate services are fully involved with jointly agreed objectives and milestones.

## Continuing activities

**Good practice requirement:** Since the Publication Scheme is a live document and the full implementation of the Act is the first of January 2005 it follows that a considerable number of tasks remain to be addressed after the publication of the Scheme. These include training, monitoring, document appraisal and contingency planning.

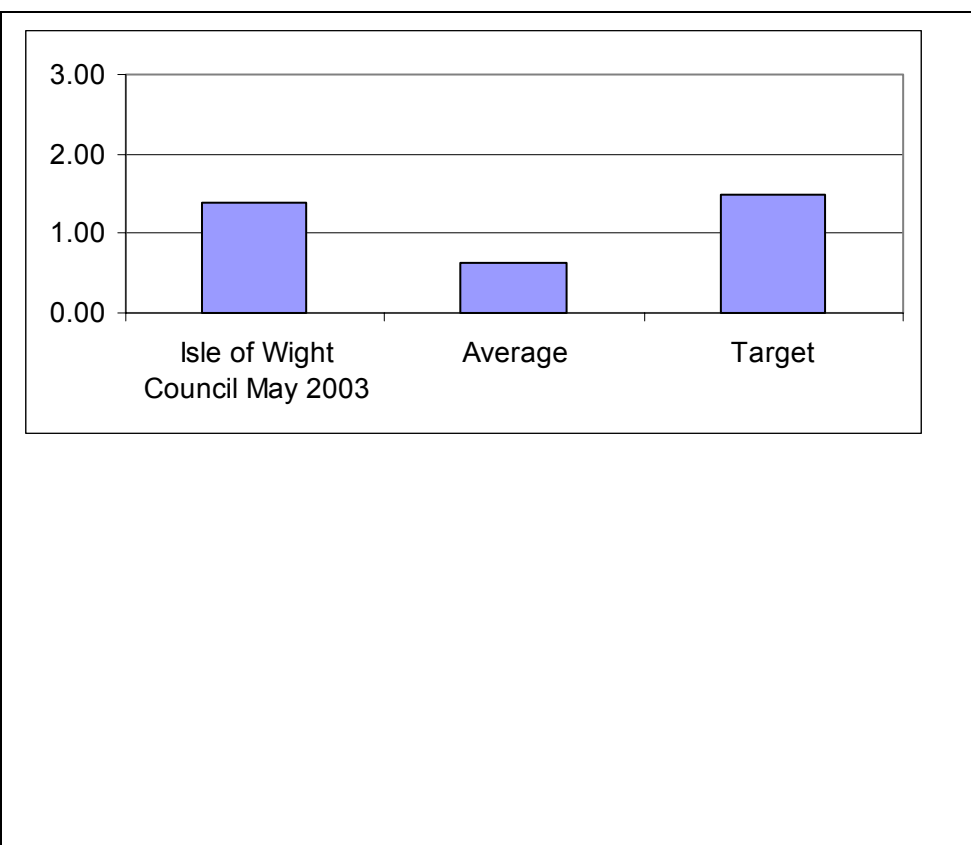


### Progress made to date:

- Training programme developed for FoI .
- Identification of departmental appraisal and disposal practices is underway.
- Business Continuity plan is in development, including a Key Documents plan.
- Publication scheme monitoring is part of the implementation process.
- Post implementation reviews are planned for the new electronic document management system
- **Action still required:**
- Guidance on FoI required in induction programme.
- Define training needs more specifically for FoI
- A management performance review of the records management function should be in the project plan.
- Contingency planning for important documents.
- Corporate disposal/retention policy
- Include requirements for DPA and FoIA into a corporate competency framework for core skills.

## Privacy and data sharing

**Good practice requirement:** The report privacy and data sharing lays out the agenda for information management in public services. The main areas addressed include management team responsibility for the agenda, public access to and amendment of data, issues of data quality and the adoption of BS7799, the Standard for Information Security Management, by all public services.



### Progress made to date:

- A review of the complaints procedures to bring them together within Corporate Policy unit.
- The Council is following elements of BS7799 in its information Security and has commissioned consultants to provide a gap analysis.
- Resources identified to produce a Public Services Charter.
- Internal Audit have planned audits of policies and procedures and audits of compliance with legislation.
- Director of Corporate Services responsible for Information issues.
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### Action still required:

- Senior Officers need to be familiar with the recommendations of the report.
- The need to produce documented public rights of access to, and correction of, data should be in the project plan.
- Service level privacy statements and data sharing protocols are at departmental level. Address these issues corporately
- Develop a data quality strategy



## Action Plan

	Action ● = started or completed, ○ = not	Started	Completed	Responsibility	End date
<b>Records management</b>					
1	Ensure that officers responsible for Records Management and Freedom of Information are part of same Directorate or have close working relationships.	●	○	Directors Group/Mike Fisher	30 June 2004
2	Corporate programme for Records Management.	●	○	John Metcalfe/Richard Smout	TBC
3	Assessment of current Records Management function.	●	○	John Metcalfe/John Lawson	31 January 2004
4	Support and skills identified.	●	○	John Lawson	31 January 2004
5	Records Management Policy in place.	○	○	Directors Group	1 May 2004
6	If Document Image processing used, BSI DISC PD0008 is being followed.	○	○	David Price	TBC – DIP project roll out
<b>Freedom of information management arrangements</b>					
7	Management Team fully briefed on Freedom of Information.	●	○	Directors Group/John Lawson	3 November 2003
8	Freedom of Information Policy adopted.	○	○	Executive/John Lawson	31 July 2004
9	Responsibilities for Data Protection and Freedom of Information brought together.	●	●	Directors Group	3 November 2003
10	Formal project set up with Management Team sponsor.	○	○	John Lawson	31 January 2004
11	Plans and budgets up to 1.1.05.	●	○	John Lawson	31 March 2004
12	Formal methodology with reporting of milestones.	○	○	John Lawson	31 January 2004
<b>Preparation for freedom of information</b>					
13	Assessment of current demand undertaken.	●	○	Heads of Service/John Lawson	30 April 2004
14	Review of current record keeping systems in use.	●	○	Heads of Service/John	30 September 2004

				Lawson	
15	List compiled of currently available information.	●	●	Heads of Service/John Lawson	Completed
16	Identify all data sharing and joint ownership of information.	○	○	Heads of Service/John Lawson	30 September 2004
17	Review of electronically held records.	●	○	Roger Brown/John Lawson	30 September 2004



	Action ● = started or completed, ○ = not	Started	Completed	Responsibility	End date
<b>The publication scheme</b>					
18	Data Audit carried out.	●	○	John Lawson	31 October 2004
19	Classes and exemptions identified.	●	○	John Lawson	31 May 2004
20	Commissioner's Guidance followed.	●	●	John Lawson	Completed
21	Project plan includes estimate for extension of scheme details.	●	○	John Lawson	31 January 2004
22	Up to date information and retention and disposal policy.	●	○	John Lawson	31 October 2004
<b>Information management system</b>					
23	Bring together results of Data Protection data audit and Freedom of Information data audit as basis of system.	●	○	John Lawson	31 October 2004
24	Procedure for dealing with access requests.	●	○	John Lawson	31 October 2004
25	Procedures for recording of enquiries.	●	○	John Lawson	31 October 2004
26	Indexing of files.	●	○	John Lawson	30 September 2004
27	Schedule of documents broken down by business unit.	●	○	John Lawson	30 September 2004
28	Publication Scheme on website.	●	●	John Lawson	Completed
<b>Continuing activities</b>					
29	Staff training on Freedom of Information.	●	○	Max Burton	From 01/04
30	Freedom of Information in staff induction.	○	○	Max Burton	From 01/04
31	Requirement to monitor scheme in project plan.	●	○	John Lawson	31 January 2004
32	Planned performance review of Records Management and Freedom of Information functions.	●	○	John Metcalfe/John Lawson	31 January 2004
33	Corporate document appraisal system to ensure only appropriate records disposed of.	○	○	John Metcalfe/John Lawson	30 September 2004
34	Contingency planning for important documents.	●	○	Heads of Service	30 September 2004

	Action ● = started or completed, ○ = not	Started	Completed	Responsibility	End date
<b>Privacy and data sharing</b>					
35	Management Team aware of recommendations of Privacy and Data Sharing report.	●	○	Directors Group	3 November 2003
36	Production of Public Services Charter in project plan.	○	○	John Lawson	31 December 2003
37	Document outlining public's right to access and correct data.	○	○	John Lawson	1 May 2004
38	Review of Complaints procedure undertaken.	●	○	John Bentley/Tony Geeson	31 December 2003
39	Data quality strategy.	○	○	John Lawson	31 March 2004
40	Internal Audit factoring data quality audits in next year's plans.	●	○	Paul Wilkinson/Bob Streets	31 March 2004
41	Corporate Information Security Management policy based on BS7799.	●	○	Roger Brown/John Clack	31 December 2004
42	Management Team aware of proposal to have member of Team responsible for all information issues.	●	○	Mike Fisher/John Lawson	3 November 2003