

For Information	
Public	Public
Report to:	Audit and Scrutiny Panel
Date of Meeting:	22nd February 2019
Report of:	Chief Constable Guildford
Report Author:	Pat Stocker, Information Management Lead
E-mail:	pat.stocker@nottinghamshire.pnn.police.uk
Other Contacts:	
Agenda Item:	11

Force Assurance Report on Compliance with Freedom of Information and Data Protection Requests

1. Purpose of the Report

- 1.1 The purpose of this report is to provide the Joint Audit and Scrutiny Panel (JASP) with data on the legislative compliance of the Freedom of Information Act and Data Protection Act legislation for the calendar year of 2018 for Nottinghamshire Police.

2. Recommendations

- 2.1 It is recommended that members note the monitoring statistics for 2018 in relation to information requests processed by Nottinghamshire Police in line with Freedom of Information and Data Protection legislation.

3. Reasons for Recommendations

- 3.1 To enable the Audit and Scrutiny Panel to fulfil its scrutiny obligations to oversee and consider Freedom of Information and Data Protection Compliance.

4. Summary of Key Points

- 4.1 As a public authority Nottinghamshire Police has a legal responsibility to respond to information requests received and processed in line with Freedom of Information Act (FOIA) and Data Protection legislation. These requests are processed and completed by the Information Request Team.
- 4.2 The legislative deadlines for the Acts are:-
- Freedom of Information 20 working days
 - Data Protection Subject Access 40 calendar days – up to 24th May 2018
 - New Data Protection Legislation - Subject Access is 1 month from 25th May 2018
- 4.3 In the calendar year 2018 the Force received 1273 valid Freedom of Information Act requests and 391 valid Data Protection Subject Access requests (SARs):

- 130 in relation to Data Protection Act 1998
- 261 in relation to Data Protection Act 2018.

Table 1: breakdown of FOIs and SARs 2016-2018

	2016	2017	2018
Valid FOI's Received/Assigned	1239	1247	1273
Invalid FOI's Received/Not assigned	7	6	64
Total FOI	1246	1253	1337
Valid SAR's Received/Assigned	284	319	391
Invalid SAR's Received/Not assigned	78	81	86
Total SAR	362	400	477

- 4.4 Based on the above figures (as recorded on our Cyclops system) this represents an increase in assigned FOI requests received between 2017 and 2018 as 2.08% and an increase in assigned SARs received between 2017 and 2018 as 22.57%. Overall there is a total increase in FOI requests received between 2017 and 2018 of 6.7% and in total SARS received between 2017 and 2018 of 19.5%. The increase in SAR figures can be largely attributed to the removal of the £10 fee and the more accessible nature of making a subject access request under General Data Protection Regulation (GDPR) which now includes verbal requests.
- 4.5 The Information Request team is responsible for receiving, validating and recording requests for information under both the FOIA and DPA. This includes Court Orders served upon the Force. The team is responsible for interrogating the relevant Force systems in order to research records available in relation to requests, manually review each record and judge its appropriateness for disclosure in line with the Acts mentioned above.
- 4.6 Any exemptions prohibiting disclosure are applied by the Information Request officer based on expert knowledge of the Acts. Any exempt information is redacted from disclosure and reasoned arguments recorded. Any public interest arguments are conducted by the relevant Information Request Officer and recorded accordingly.
- 4.7 The Information Request team comprises of:
- 3.6 x FTE staff members including 1 Manager and 2.6 FTE disclosure officers dealing with FOIA and DPA.
 - 2 further staff members who facilitate timely and consistent disclosure of information and documents from the police, into the Family Justice System and conduct 'Police checks' on behalf of Social Care. 1 x FTE is new in post and still undergoing relevant training.
- 4.8 **Freedom of Information (FOI)**

The Force monitors compliance and provides quarterly statistics for Freedom of Information to the NPCC Central Referral Unit based in Hampshire. These statistics are collated from all Forces including Police Scotland and the Metropolitan Police Service. Regional and national statistics are produced and circulated to all Forces on a quarterly basis.

4.9 Current Demand Levels: FOI

- The graph shown at **Appendix 1** shows that Nottinghamshire Police receives just under the national average of FOI requests. This puts the Force in the upper quartile of Forces in terms of the numbers of requests received.
- The graph shown at **Appendix 2** shows that Nottinghamshire Police close less FOI requests per quarter than the national average and have almost double the numbers of those closed outside of the legislative timescale.

This performance level is predominantly due to the current resource level and the increasing size of the backlog of FOI requests. This situation is being addressed as part of the Information Management Team Restructure Business case.

4.10 Subject Access Requests (SAR)

The Information Request team processes Subject Access requests received under Data Protection legislation for information held by Nottinghamshire Police. National Statistics are not routinely circulated from the National Subject Access Group.

4.11 Current Demand Levels: Subject Access Requests (SAR)

The graph shown at **Appendix 3** shows that Nottinghamshire Police receive on average 103 SARs per quarter, respond to 78 with an average of 37 of those outside of the legislative timescale.

This performance level is affected by the complexity and size of requests, especially those relating to email records. As the same resources deal with both FOI and SAR requests then the current resourcing level and size of backlog is again a factor. This situation is being addressed as part of the Information Management Team Restructure Business case.

4.12 Court Orders

The Information Request Team also have the responsibility for disclosures to Court orders which can be received from any court in the UK and Ireland for Child Care, Private and Family Proceedings. In 2018 Nottinghamshire Police received 438 valid Court orders for disclosure; this is an increase of 5.29% on the number of orders received in 2017.

4.13 Current Demand Levels: Court Order

The graph shown at **Appendix 4** shows that Nottinghamshire Police receives on average 113 Court Orders per quarter. 100% of all Court Orders received have been responded to within the order deadline during 2018 as they are prioritised over other types of request. The statistics also show an upward trend in the number of Court Orders being received over the last year and we will continue to monitor this trend

Requests for Court orders are always prioritised due to the risk of delays on cases being managed through the Family Court system if timely checks are not completed. This prioritisation impacts on the delays in responding to the other types of request such as FOIs and Subject Access requests.

4.14 **Other types of Information requests**

The Information Request team also have the responsibility for many other types of disclosure, all of which have to comply with the principles of the FOIA and DPA legislation but may have different timescales for reply - see table below.

Table 2: Data Protection General Requests Categories

Category	Description	Time scale
Insurance	Validation of details in relation to crimes for insurer to settle claim	30 working days
Home Office	UK Border Agency and Immigration requiring confirmation and details of Police involvement for those wishing to stay in the country	40 calendar days
Housing Confirmation	Local and Social housing requiring confirmation of the reason given by the person who has presented to them as homeless.	5 working days
Housing General	As above but require more specific detail	40 calendar days
Insurance Appendix E	Insurance companies requiring information in relation to a claim that they believe is fraudulent	40 calendar days
NHS	General Medical Council, Nursing Midwifery Council require details of a registered practitioner who has been involved with the police to consider their fitness to practice	40 calendar days
Legal proceedings	Private legal proceedings such as personal injury claims	40 calendar days

Other Police Forces	Request from other forces for information held by Nottinghamshire Police	No set timescale as soon as is practicable
Schedule 2, Part 1, Paragraph 2: Crime and Taxation	Requests from other prosecuting bodies such as DWP, local authorities and RSPCA	40 calendar days

Income Generation from Information requests

4.15 The Information Request Team generate income from some types of information request - see table below:

Table 3: Income generation from information requests 2016 - 2018

Income £	2016	2017	2018
SAR	£2,060.00	£2,240.00	£910
Court	£12,576.70	£18,436.28	£13,850.85
Insurance	£13,376.61	£15,448.30	£9,985.30
Private/Civil	£7,086.00	£5,106.60	£2,411.90
DP Gen	£2,402.00	£1,955.90	£789.30
Total	£37,501.31	£43,187.08	£27,947.35

Figures compiled from Cyclops – additional income received electronically (i.e. via BACs) is recorded in Finance

Please note the 2018 income figure for SARs has significantly reduced following the removal of the statutory £10 fee from 25th May 2018 as part of the new Data Protection Bill 2018. The removal of this fee and the more accessible nature of subject access requests has also prompted many organisations to encourage individual service users to use the subject access request process rather making requests under other parts of the Data Protection Act where charges can still be applied.

Current Risks and Mitigations

- 4.16 Continued delays in responding to FOI/SAR requests outside of the legislative timescales may result in an increase of complaints and the possibility of increased scrutiny by the Information Commissioners Office that could ultimately lead to some reputational damage, enforcement action and potentially monetary penalties.
- 4.17 A business case to restructure the Information Management Unit including additional resources to manage demand was presented and agreed at Force

Executive Board on 14th January 2019. A consultation period will now take place and a recruitment exercise to appoint the additional resources as soon as possible.

- 4.18 A post implementation review of the restructure will take place and reported as part of the next annual Nottinghamshire Police Information Management, Freedom of Information and Data Protection update for calendar year 2019.

5 Financial Implications and Budget Provision

- 5.1 There are no direct financial implications for 2018/19.

6 Human Resources Implications

- 6.1 People Services resources are required to support the consultation and recruitment process following on from restructure business case and they are fully briefed on the requirements.

7 Equality Implications

- 7.1 There are no equality implications arising from this report.

8 Risk Management

- 8.1 Any risks relating to the FOI/DP function are identified on the Information Management Risk Register and managed locally. The Senior Information Risk Owner (DCC Barber) monitors all relevant risks via the Information Management Board.

9 Policy Implications and links to the Police and Crime Plan Priorities

- 9.1 Links to Police and Crime Plan 2018 – 2021:

- 9.1.1 **Transforming Services and Delivering Quality Policing:** The benefits of providing a good service to the public by responding to external DP and FOI requests fully and on time will support the Commissioner’s pledge to improve confidence and satisfaction in policing services. It will also reduce complaints to both the Information Commissioner’s Office and Professional Standards Department and reduce the resources required to respond to this failure demand.

- 9.1.2 **Demand for Service:** As stated in the Police and Crime Plan (PCP) 2018-2021 “Calls for service to the Force remain significantly higher than average and are increasing in Nottinghamshire against the backdrop of reduced Police officer and staff capacity. The service also records more incidents than an average force”. The higher demand recorded in Nottinghamshire aligned with the records

management issues that sees the Force retaining data for longer periods, especially those relating to IICSA and UCPI, also increases the amount of data that needs to be searched on and returned leading to additional time to read and redact requests appropriately.

9.1.3 Governance & Accountability As stated in the PCP 2018-2021, “To discharge this accountability the Commissioner and senior officers must put in place proper procedures for the governance and stewardship of the resources at their disposal.” Both Data Protection and FOI legislation identify roles and responsibilities accountable for the legislative compliance against the Acts. The Information Commissioner would assess the governance processes in place if the Force was to come under their scrutiny following an event such as a number of complaints or a data breach.

10. Changes in Legislation or other Legal Considerations

- 10.1 The General Data Protection Regulations (GDPR) including the Data Protection Act 2018 is now applicable in the UK from 25 May 2018.
- 10.2 An extension to the FOI Act is currently being debated in Parliament which seeks to add to the authorities who are subject to FOI legislation. The bill would include Social Housing and Children’s Safeguarding Boards (amongst others). It would also make information held by contractors acting on behalf of public authorities subject to the FOI Act. If the changes to the contractors information are implemented this could significantly add to the FOI demand already in place. A second reading of the Bill is being heard in Parliament on 25/01/2019.

11. Details of outcome of consultation

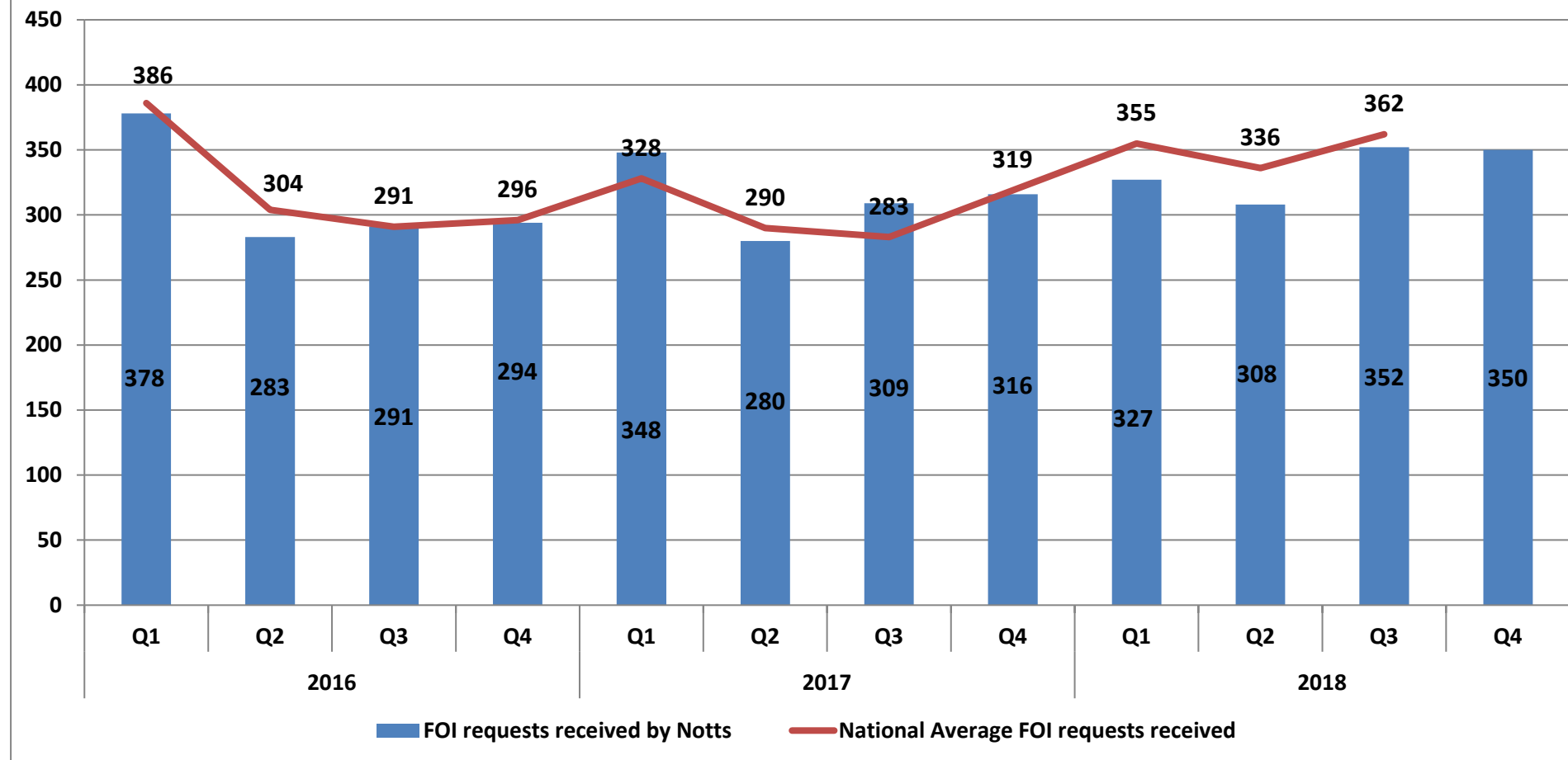
- 11.1 Any issues in relation to Freedom of Information and Data Protection compliance are monitored through the Information Management Board chaired by the Deputy Chief Constable.

12. Appendices

- 12.1 Appendix 1 – FOI Requests Received
- 12.2 Appendix 2 – FOI Requests Disclosed
- 12.3 Appendix 3 – Subject Access requests
- 12.4 Appendix 4 – Court Orders Received

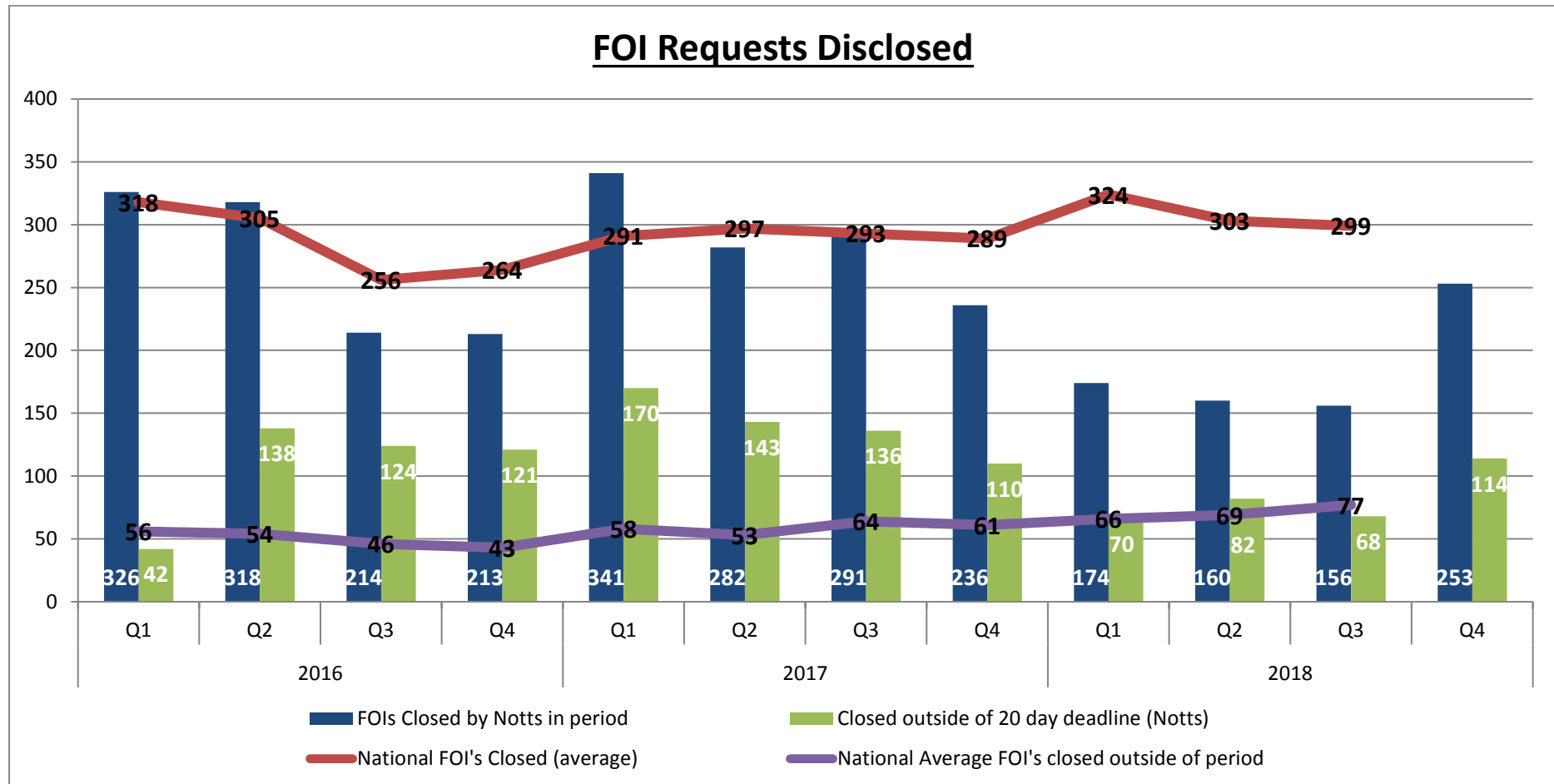
Appendix 1: Freedom of Information Act Requests – the national average of FOI requests received per quarter = 323
 Nottinghamshire Police average of FOI requests received per quarter = 317

FOI Requests Received by Notts Vs. National Average

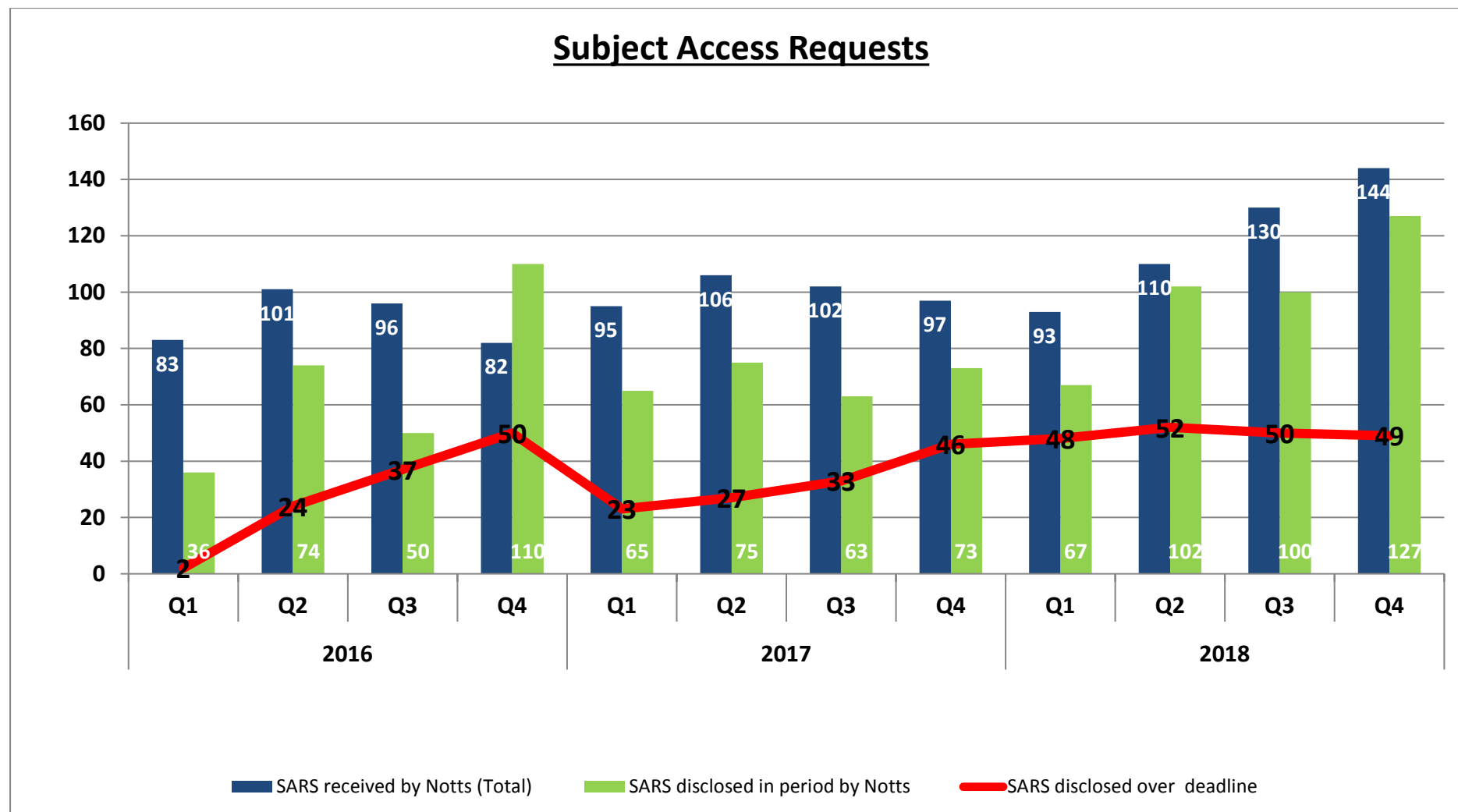


Appendix 2: FOI Closed – the national average of FOI requests closed per quarter = 294. Nottinghamshire Police closed 246 FOI requests on average over the same period.

Closed outside of 20 day timescale: the national average of FOI requests closed outside of the 20 day timescale per quarter = 59. Nottinghamshire Police closed 109 FOI requests outside of the 20 day timescale on average over the same period.



Appendix 3 – Subject Access Requests – the average number of SARs received by Nottinghamshire Police per quarter = 103 and the average number disclosed per quarter = 78 of which, on average, 37 were responded to outside of the legislative timescale. National SAR statistics are not available to use as a comparator to other forces performance.



Appendix 4 – Court Orders – The average number of Court Orders received by Nottinghamshire Police per quarter is 113. 100% of all Court Orders received have been responded to within the order deadline during 2018 as they are prioritised over other types of request. The chart also shows an upward trend in the number of Court Orders being received over the last year and we will continue to monitor this trend.

