

For Information	
Public	Public
Report to:	Audit and Scrutiny Panel
Date of Meeting:	24th February 2020
Report of:	Deputy Chief Constable
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Agenda Item:	13

Nottinghamshire Police Information Management - Freedom of Information and Data Protection Information Requests update for calendar year 2019.

1. Purpose of the Report

- 1.1 To provide the Audit and Scrutiny Panel with data on the legislative compliance for Information Requests under the Freedom of Information Act and Data Protection Act legislation for calendar year January to December 2019

2. Recommendations

- 2.1 For Members to note the monitoring statistics for calendar year 2019 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 Information Request Compliance.

4. Summary of Key Points

- 4.1 Nottinghamshire Police as a public authority 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 1 calendar month from receipt of request

4.3 In the calendar year 2019 the Force has received 1279 valid Freedom of Information Act requests and 498 valid Data Protection Subject Access requests

	2016	2017	2018	2019
Valid FOI's Received/Assigned	1239	1247	1273	1279
Invalid FOI's Received/Not assigned	7	6	64	111
Total FOI	1246	1253	1337	1390
Valid SAR's Received/Assigned	284	319	391	498
Invalid SAR's Received/Not assigned	78	81	86	143
Total SAR	362	400	477	641

4.4 Based on figures as recorded on our Cyclops (request management) system, this represents an increase in total FOI requests received in 2019 of 3.96% (when based on total FOI requests received in 2018 and an increase in total SAR's received of 34.38%. The respective increases from 2017 to 2018 (as reported in our previous report) were 6.7% for FOI and 19.5% for SARs respectively.

4.5 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 GDPR which now includes verbal requests.

4.6 Additionally, adjustments to legal aid funding now means that payments for Police disclosure in respect of private family court proceedings are being refused funding, as these can be obtained for free under the GDPR right of access provisions. Consequently, many requests which would previously have been made as Court Order instructions and which would have been chargeable, are now being made as subject access requests and are being dealt with without cost to the applicant (but not without cost to the organisation).

4.7 The workload demand is also compounded by the reduction of the statutory deadline for provision of disclosure in respect of SARs from 40 calendar days to 1 calendar month. We are also finding that requests are becoming more complex and voluminous in nature due to increased social awareness of GDPR and right of access provisions.

4.8 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.

4.9 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.

4.10 The Information Request team currently comprises of:

- 6.6 x FTE staff members including 1 Team Leader and 5.6 FTE Request Officers dealing with FOIA and DPA. There is also 1 x FTE Information Request Administrator post which has been vacant since December 2019. This post has recently been recruited to and we are currently awaiting vetting clearance for the new starter in question.
- 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. However, at present only 1 of these posts is filled. We are currently recruiting to the second vacant position.

4.11 NPCC Compliance Figures provided to the ICO for publication

The Force monitors compliance and provides quarterly statistics for Freedom of Information to the NPCC Central Referral Unit based in Hampshire. Since September 2019 compliance figures in respect of FOI and Subject Access requests have been required to be provided to the Information Commissioners Office for performance monitoring purposes. The intention is that these performance figures be published on the ICO website.

4.12 Current Demand Levels: **FOI**

- The tables at **Appendix 1** shows Nottinghamshire Police's ICO Performance returns for FOI and SARs from September 2019 to December 2019.
- The graph at **Appendix 2** shows the total number of FOI's closed and those closed within the legislative timescales. These figures show that towards the end of 2019 our compliance figures are showing signs of improvement. This is in part due to a shift in focus to prioritise new requests and ensure they are responded to within statutory timescales and managing older requests by liaising with the applicant.

- Although the number of FOI requests being responded to within timescales is improving, there has been a slight decrease in the number of FOI requests being closed overall as we have seen the usual increase in other types of requests for personal data (such as Court Orders) being received which is normal practice at the end of each year.

A number of efficiencies in procedure have been looked at in terms of the management of FOI requests at the initial stages of processing. This includes a more effective triaging system.

NPCC – ICO SUBMISSION – FOI DATA (NOVEMBER)	
Force	Percentage of FOI requests completed on time
Derbyshire	100%
Norfolk	100%
Suffolk	100%
NPCC	100%
BTP	98%
Cheshire	98%
Essex	97%
Mersey	97%
Hants	97%
N. Wales	97%
Wilts	96%
Gwent	96%
A & S	96%
Surrey	96%
Beds	95%
W. Mids	95%
S. Yorks	94%
Dorset	94%
Lincs	93%
Northumbria	93%
D & C	92%
Cleveland	89%
Sussex	88%
Herts	86%
Staffs	86%
S. Wales	82%
Lancs	82%
Cambs	79%
Notts	78%
TVP	78%
D. Powys	75%
Durham	72%
Gloucs	68%
Leics	67%
W. Yorks	61%
Northants	57%
MPS	56%
GMP	40%
Kent	37%
PSNI	31%
Cumbria	18%
N. Yorks	18%
City/Lon'n	11%

Warwickshire	4%
W. Mercia	4%
Humberside	No stats returned

In terms of the latest ICO submission data for 2019 (November returns) circulated by the NPCC, Nottinghamshire Police sit at 29th position in terms of compliance with FOI timescales in November 2019:

*Notts highlighted in yellow. East/West Mids regional Forces highlighted in orange.

4.13 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. However since September 2019 compliance figures in respect of FOI and Subject Access requests have been required to be provided to the Information Commissioners Office for performance monitoring purposes. The intention is that these performance figures be published on the ICO website.

4.14 Current Demand Levels: Subject Access Requests (SAR)

- The graph shown at **Appendix 3** shows that Nottinghamshire Police have seen a significant increase in the amount of SARs received quarter after quarter since 2018 and are only slowly plateauing towards the end of 2019.
- In line with this there has been an increase in the number of SARs being disclosed per quarter in 2019 with fewer SARs being disclosed outside of the statutory timescales. The ICO returns at **Appendix 1** show that compliance with the SAR timescales is good currently sitting at 85% in December.
- On average Nottinghamshire Police receive approximately 160 SARs per quarter.

This performance level is affected by the complexity and size of requests, especially those relating to email records. We are finding that requests are becoming increasingly more detailed, complex and voluminous in nature as the social awareness of information rights increases. Due to the recent Information Management restructure we have more Request Officers available to deal with the demand of Information requests across both DP and FOI however, an uplift in compliance performance will not be demonstrable until new starters are fully trained which can take several months. It is likely that as the backlog of requests is addressed, compliance performance may suffer until the backlog is eliminated completely.

In terms of the latest ICO submission data for 2019 (November returns) circulated by the NPCC, Nottinghamshire Police sit at 27th position in terms of compliance with SAR timescales in November 2019:

NPCC – ICO SUBMISSION – SAR DATA (NOVEMBER)	
Force	Percentage of requests completed on time
Durham	100%
Essex	100%
Gwent	100%
Herts	100%
N. Wales	100%
North'ria	100%
Staffs	100%
Surrey	100%
Beds	98%
TVP	98%
Cambs	98%
Lincs	97%
Suffolk	97%
Wilts	97%
Derb're	96%
Cheshire	96%
Hants	96%
Mersey	96%
Cumbria	95%
Norfolk	95%
Gloucs	92%
BTP	92%
Cleveland	91%
D. Powys	89%
N. Yorks	87%
Northants	85%
Notts	80%
W. Mids	75%
PSNI	71%
W. Mercia	69%
MPS	64%
A &S	63%
S. Yorks	63%
Leics	63%
GMP	61%
Warwicks	55%
Lancs	42%
S. Wales	38%
Kent	38%

City/Lon'n	34%
Sussex	26%
W. Yorks	24%
D & C	0%
Dorset	0%
Humb'de	No stats returned
NPCC	N/A

*Notts highlighted in yellow. East/West Mids regional Forces highlighted in orange.

4.15 Court Orders

The Information Request Team also discloses information in relation to Court orders which can be received from any court in the UK and Ireland for Child Care, Private and Family Proceedings. In 2019 Nottinghamshire Police received 589 Court orders in total; this is an increase of 10.5% on the number of orders received in 2018. We have seen a steady increase in Court orders year after year which is reflected nationally.

4.16 Current Demand Levels: Court Orders

The graph shown at **Appendix 4** shows that Nottinghamshire Police receives on average 122 Court Orders per quarter. The majority of all Court Orders received have been responded to within the order deadline during 2019 as they are prioritised over other types of request.

The chart also shows an upward surge in Court Orders received in Quarter 4. This is traditionally seen towards the end of the year with the closures of Courts and Local Authorities over the Christmas period and the rush to put in requests prior to closure.

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 corresponding delays to the other types of request such as FOI's and Subject Access requests.

Other types of Information requests

4.17 The Information Request Team also provide responses 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. (See table below)

Table of Data Protection General Requests Categories

Category	Description	Time scale
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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.	10 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	20 working days
Legal proceedings	Private legal proceedings such as a personal injury claims	20 working 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	20 working days

Income Generation from Information requests

4.18 The Information Request Team generate income from some types of information request. (See table below)

Income £	2016	2017	2018	2019
SAR	£2,060.00	£2,240.00	£910	£0.00
Court	£12,576.70	£18,436.28	£13,850.85	£37,417.10
Insurance	£13,376.61	£15,448.30	£9,985.30	£18,028.20
Private/Civil	£7,086.00	£5,106.60	£2,411.90	£6,958.30
DP Gen	£2,402.00	£1,955.90	£789.30	£6,837.90
Total	£37,501.31	£43,187.08	£27,947.35	£69,241.50

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

The removal of the £10 SAR fee and the more accessible nature of subject access requests have 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.

We have seen a dramatic increase in income related to Court Order requests in 2019 possibly due to Court Orders becoming more complex and voluminous in the amount of information being requested. We are also seeing an increase in income generated across all areas and further research is required to understand the reasons behind these areas. We are monitoring these figures with the Finance department as part of the Information Management Unit Budget Review.

Current Risks and Mitigations

- 4.19 Continued delays in responding to FOI/SAR requests outside of the legislative timescales also results in an increase of demand in the form of telephone calls from individuals chasing their requests and complaints being made.
- 4.20 A continuous trend of delays to requests may increase the possibility of scrutiny by the Information Commissioners Office.
- 4.21 The restructure of the Information Management is now implemented which has led to an uplift in the number of Requests Officers from 2.6 to 5.6 FTEs
- 4.22 An interim post implementation review of the IMU restructure is due to take place at the end of March 2020.

5 Financial Implications and Budget Provision

5.1 There are no direct financial implications for this year

6 Human Resources Implications

There are no direct HR implications for this year

7 Equality Implications

7.1 There are no equality implications

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 Commissioners pledge to improve confidence and satisfaction in policing services. It will also reduce complaints to both the Information Commissioners office and PSD and reduce the resources required to respond to this failure demand.

9.1.2 **Demand for Service:** As stated in the 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 when queried 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 FOI Act. If the changes to the Contractors information are implemented this could significantly add to FOI demand already in place. A second reading of the Bill is being heard in Parliament on a date to be announced.

11 Details of outcome of consultation

- 11.1 No consultation took place in preparing this report

12. Appendices

- 12.1 Appendix 1 – ICO Performance submissions for Nottinghamshire Police Sept-Dec 2019
- 12.2 Appendix 2 – FOI Requests Disclosed
- 12.3 Appendix 3 – Subject Access requests
- 12.4 Appendix 4 – Court Orders

13. Background Papers (relevant for Police and Crime Panel Only)

13. No background papers have been provided

Appendix 1: ICO Performance Returns Nottinghamshire Police September 2019 – December 2019

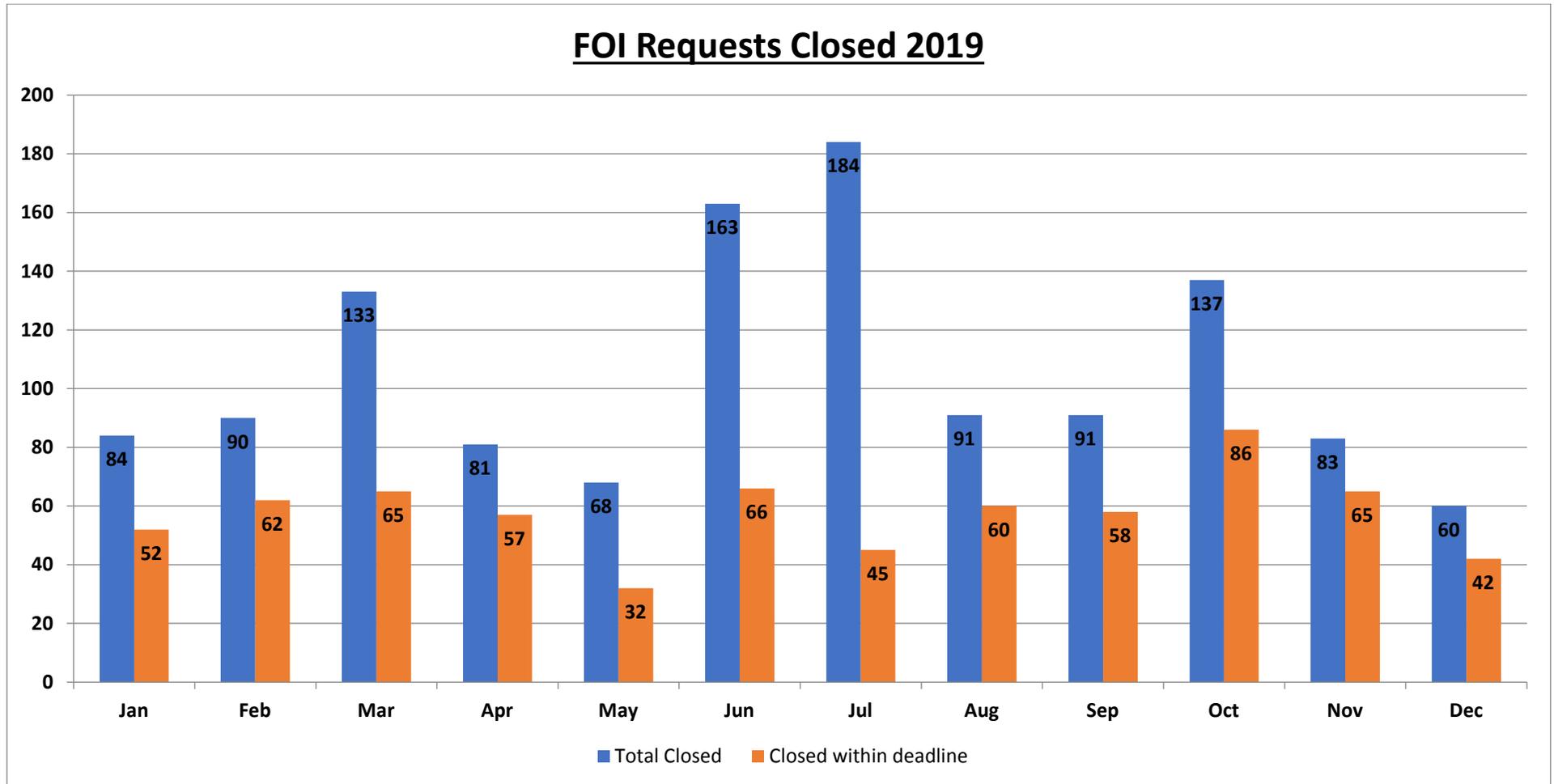
Freedom of Information Requests

Month	No of requests received in month	No of requests closed in month	No of requests closed in time	Percentage of requests completed in time	Total No of open requests	Total No of open requests overdue	No of Internal Reviews closed in month	No of Internal Reviews closed in time	Percentage of internal reviews completed in time	No of open Internal Reviews	No of Internal Reviews overdue	No of open requests older than 6 months	No of open requests older than a year	Oldest open request (days)
Sep	87	91	58	64%	306	262	0	0	#DIV/0!	4	4	115	4	476
Oct	114	137	86	63%	302	243	4	0	0%	1	0	108	23	507
Nov	104	83	65	78%	326	273	0	N/A	#VALUE!	4	2	125	50	537
Dec	76	60	42	70%	328	290	0	0	#DIV/0!	5	4	148	80	567

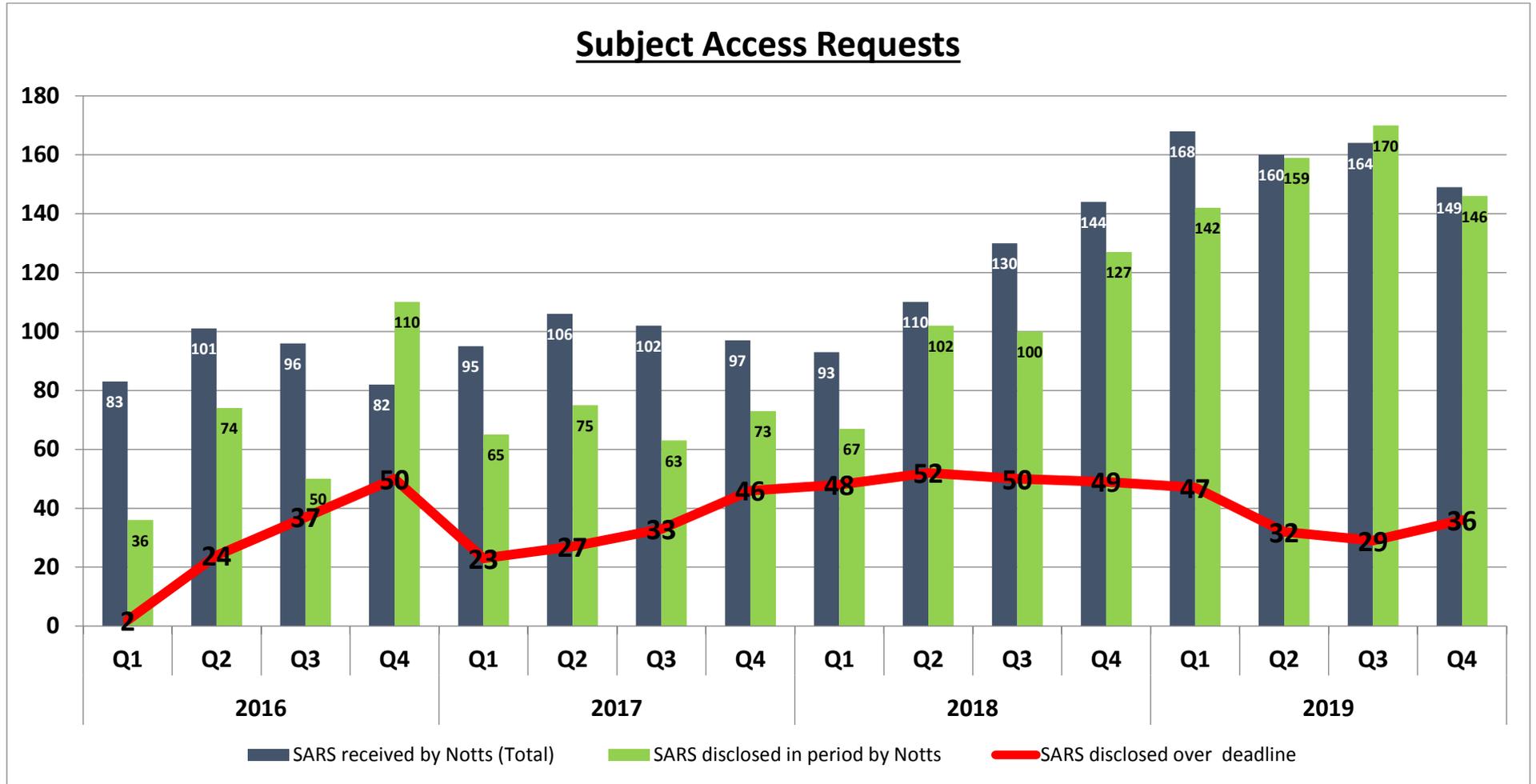
Subject Access Requests

Year	Month	Number of requests received in month	Number of requests closed in month	Number of requests closed in time	Percentage of requests completed in time	Total number of open requests	Total number of open requests overdue	Number of open requests older than 6 months	Number of open requests older than a year	Oldest open request (days)
2019	Sep	55	69	59	86%	53	27	5	1	450
	Oct	51	59	38	64%	40	15	3	0	344
	Nov	47	40	32	80%	55	24	5	1	374
	Dec	51	47	40	85%	51	34	5	1	410

Appendix 2:
FOI Closed/closed within deadline 2019



Appendix 3 – Subject Access Requests



Appendix 4 – Court Orders

