

<b>For Information</b>	
<b>Public</b>	<b>Public</b>
<b>Report to:</b>	<b>Joint Audit and Scrutiny Panel (JASP)</b>
<b>Date of Meeting:</b>	<b>24<sup>th</sup> July 2018</b>
<b>Report of:</b>	<b>Deputy Chief Constable</b>
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<b>Agenda Item:</b>	<b>13</b>

## **Nottinghamshire Police Information Management, Freedom of Information and Data Protection update for calendar year 2017.**

### **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 2000 and Data Protection Act 1998 for the calendar year of 2017.

### **2. Recommendations**

- 2.1 It is recommended that members note the monitoring statistics for 2017 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 JASP to fulfil its scrutiny obligations to oversee and consider Freedom of Information and Data Protection 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 Disclosure Team
- 4.2 The legislative deadlines for the Acts are:-
- Freedom of Information 20 working days
  - Data Protection Subject Access 40 calendar day
- 4.3 In the calendar year 2017 the Force has received 1247 valid Freedom of Information Act requests and 319 valid Data Protection Subject Access requests for local information from Force systems.

**Table 1: FOI and SARs received by year**

	2015	2016	2017
Valid FOI's Received/Assigned	1135	1239	1247
Invalid FOI's Received/Not assigned	50	7	6
<b>Total FOI</b>	<b>1185</b>	<b>1246</b>	<b>1253</b>
Valid SAR's Received/Assigned	281	284	319
Invalid SAR's Received/Not assigned	45	78	81
<b>Total SAR</b>	<b>326</b>	<b>362</b>	<b>400</b>

- 4.4 Based on the above figures (as recorded on our Cyclops system), this represents an increase in assigned FOI requests received between 2016 and 2017 as 0.65% and an increase in assigned SAR's received between 2016 and 2017 as 12.32%. Overall there is a total increase in FOI requests received between 2016 and 2017 of 0.56% and in total SARS received between 2016 and 2017 of 10.5%.
- 4.5 The Information Disclosure 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 Disclosure 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 Disclosure Officer and recorded accordingly.
- 4.7 The Information Disclosure team comprises of:
- 4 x FTE staff members including 1 Manager and 3 disclosure officers dealing with FOIA and DPA.( 1 x FTE role currently working 0.6 following return from Maternity Leave in March 2018)
  - 2 further staff members who facilitate timely and consistent disclosure of information and documents from the police, into the Family Justice System ( only 1 x FTE in place following resignation of post holder in November 2017 – new starter expected in the next few weeks)
- 4.8 The increasing number and complexity of both Data Protection and FOI requests has led to an increase in the amount of requests responded to outside of the legislative deadlines. This main consequences of this are potential risk and harm to individuals including children if timely checks are not completed when Court Order and Safeguarding requests are received, There is also the possibility of increased scrutiny by the Information

Commissioners Office leading to reputational damage, enforcement action and significant monetary penalties. **These risks are identified in the Risk Register at Appendix 5**

4.9 A plan to mitigate these risks includes a review of the resources required to manage the increasing demand and also includes the changes incorporated into the new Data Protection Act 2018 from 25<sup>th</sup> May 2018. These changes include a reduction to response times from 40 days to 30 days, the removal of the standard £10 charge for Subject Access Requests and the additional rights for Data Subjects.

4.10 A restructure of the Information Management team is being prepared with a Hybrid Business Case due at Force Executive Board early August 2018.

4.11 The results of the review including any agreed changes to structure and effects on demand will be reported as part of the next annual Nottinghamshire Police Information Management, Freedom of Information and Data Protection update for calendar year 2018.

### **Freedom of Information**

4.8 The Force monitors compliance and provides quarterly statistics for Freedom of Information to the ACPO 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.

**Results for Nottinghamshire can be seen in the attached charts at Appendices 1 & 2.**

### **Data Protection**

4.9 The Information Disclosure team processes Subject Access requests received under Section 7 of the DPA 1998 for information held by Nottinghamshire Police. National Statistics are not routinely circulated from the National Group.

**Results for Nottinghamshire can be seen in the attached charts at Appendix 3.**

### **Court Orders**

4.10 The Information Disclosure 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 2017 Nottinghamshire Police received 416 valid Court orders for disclosure; this is an increase of 3.74% on the number of orders received in 2016.

**Results for Nottinghamshire can be seen in the attached charts at Appendix 4**

## **Other types of Information requests**

4.11 The Information Disclosure 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. (See table below)

**Table 2: Data Protection General Requests**

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 a personal injury claims	40 calendar days
Police	Request from other forces for information held by Nottinghamshire Police	No set timescale as soon as is practicable
Section 29 of the DPA	Requests from other prosecuting bodies such as DWP, local authorities and RSPCA	40 calendar days

## **Income Generation from Information requests**

4.12 The Information Disclosure Team generate income from some types of information request (see table below):

**Table 3: Income generated from IRs by year**

Income £	2015	2016	2017
SAR	£2,180.00	£2,060.00	£2,240.00
Court	£17,877.67	£12,576.70	£18,436.28
Insurance	£13,128.25	£13,376.61	£15,448.30
Private/Civil	£5,782.70	£7,086.00	£5,106.60
DP Gen	£2,364.20	£2,402.00	£1,955.90
<b>Total</b>	<b>£41,332.82</b>	<b>£37,501.31</b>	<b>£43,187.08</b>

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

Please note the 2018 figure will reduce substantially following the removal of the statutory £ 10 fee from 25<sup>th</sup> May 2018 as part of the new Data Protection Bill 2018 although we are still currently charging postage costs for anyone wishing to receive hard copy disclosures. This will have an impact on projected income from subject access requests for 2018.

### **Current Risks and Mitigations**

4.13 There are a number of risks relating to the wider Information Management Team identified on the Corporate Development Department Risk Register that are being managed locally and the SIRO has been made aware of the current situation.

**Relevant extract from the Corporate Development Departmental Risk register see Appendix 5.**

## **5 Financial Implications and Budget Provision**

5.1 There are no direct financial implications for this year – the financial implications for the changes in the Data Protection Act 2018 will be reported in next years annual report on DP/FOI compliance in 2018.

## **6 Human Resources Implications**

6.1 There are no direct human resource implications - the resource implications for the changes in the Data Protection Act 2018 are being incorporated into the hybrid business case and will be reported in next years annual report on DP/FOI compliance in 2018.

## **7 Equality Implications**

7.1 There are no equality implications

## **8 Risk Management**

8.1 Not meeting the Forces legislative obligations under the Acts – see Appendix 5 for extract of Corporate Development Risk Register

## **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.

## **11 Details of outcome of consultation**

- 11.1 Any issues in relation to Freedom of Information and Data Protection compliance is monitored through the Information Management Board (previously called Force Information Assurance 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

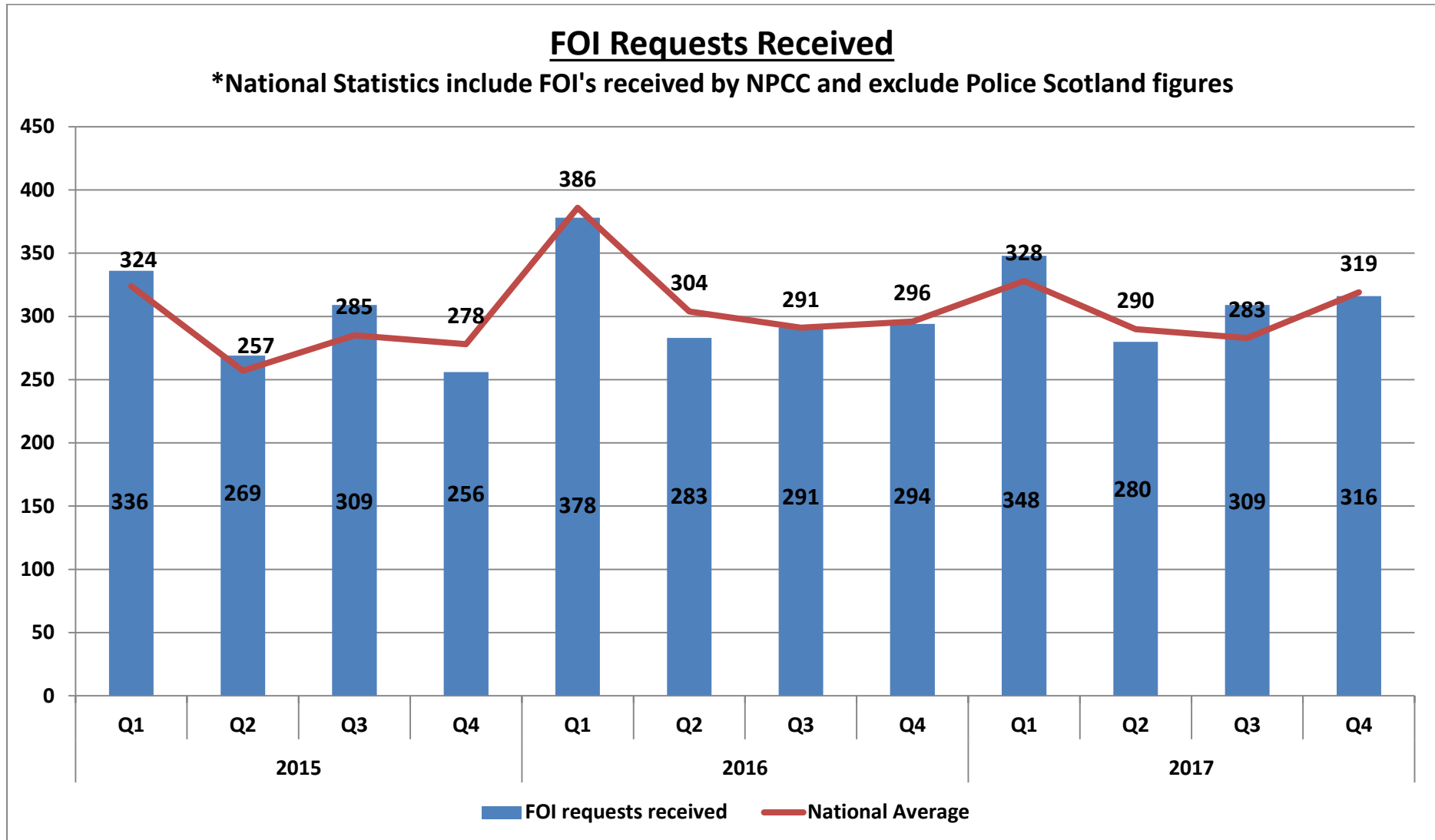
12.4 Appendix 4 – Court Orders

12.5 Appendix 5 – Extract from Corporate Development Departmental Risk register

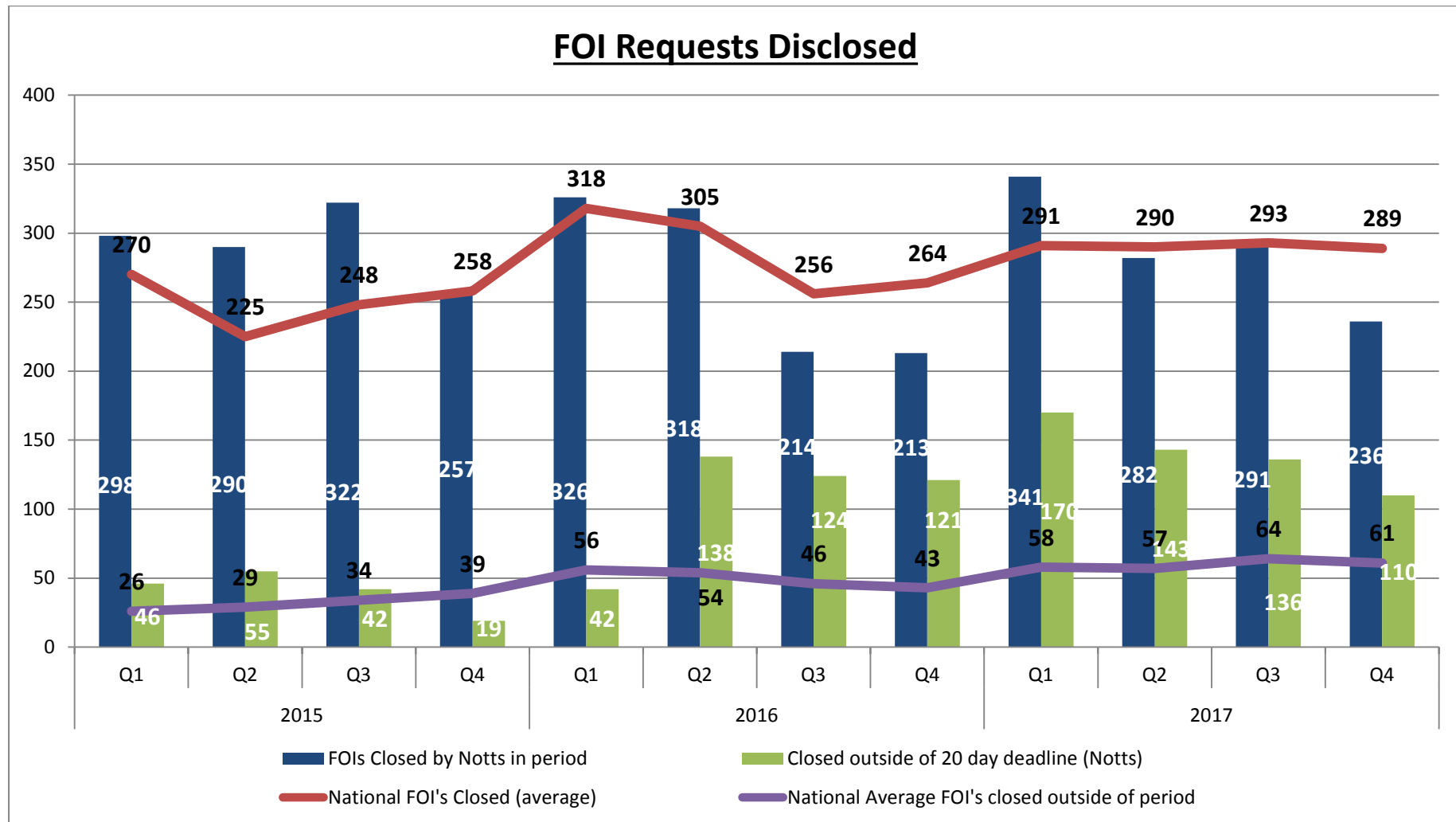




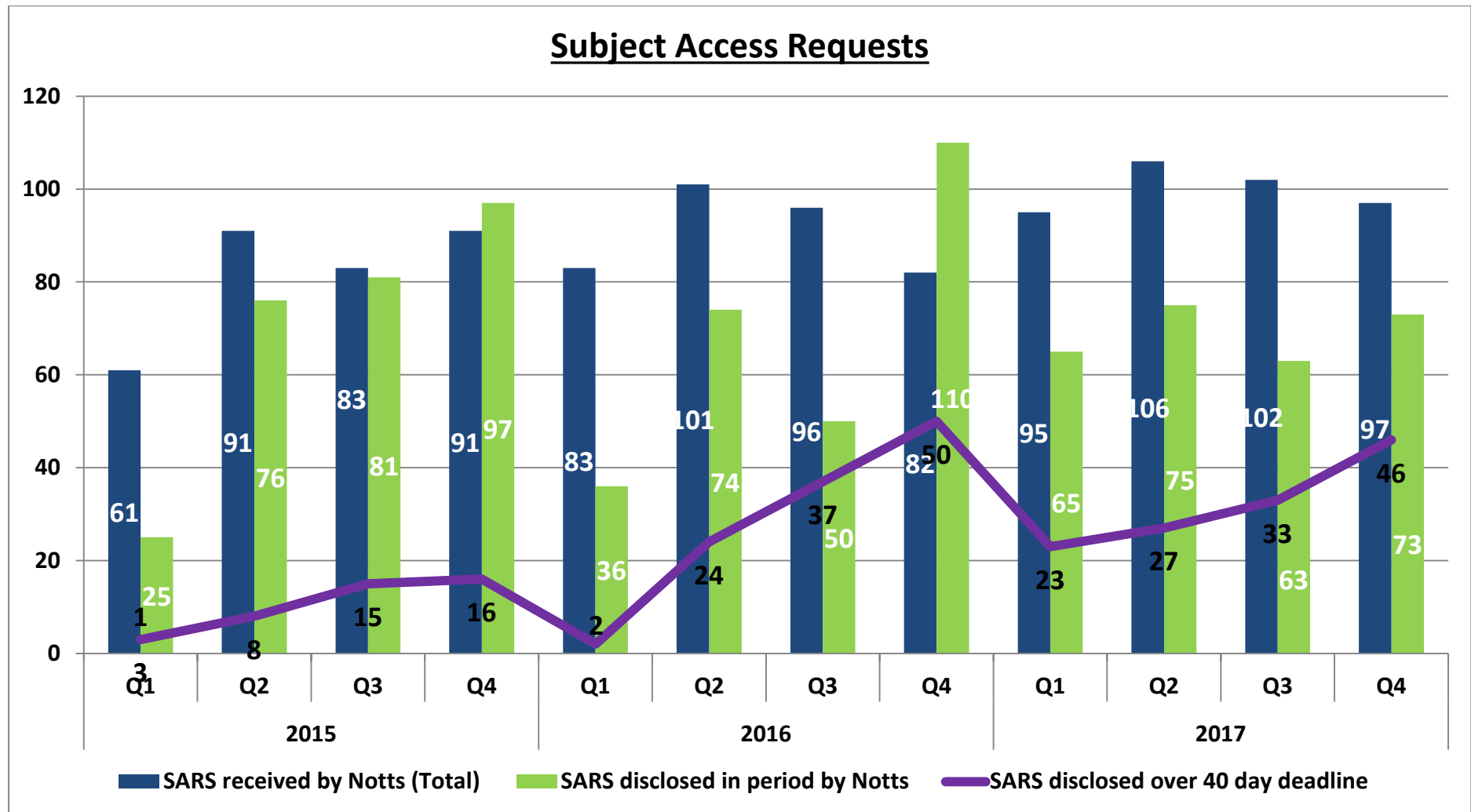
Appendix 1: Freedom of Information Act Requests – this chart shows that the number of FOI requests received locally meets or exceeds the national average number received in 9 months of 2017 – this puts the Force in the top half of the national Forces in terms of numbers of FOI’s received.



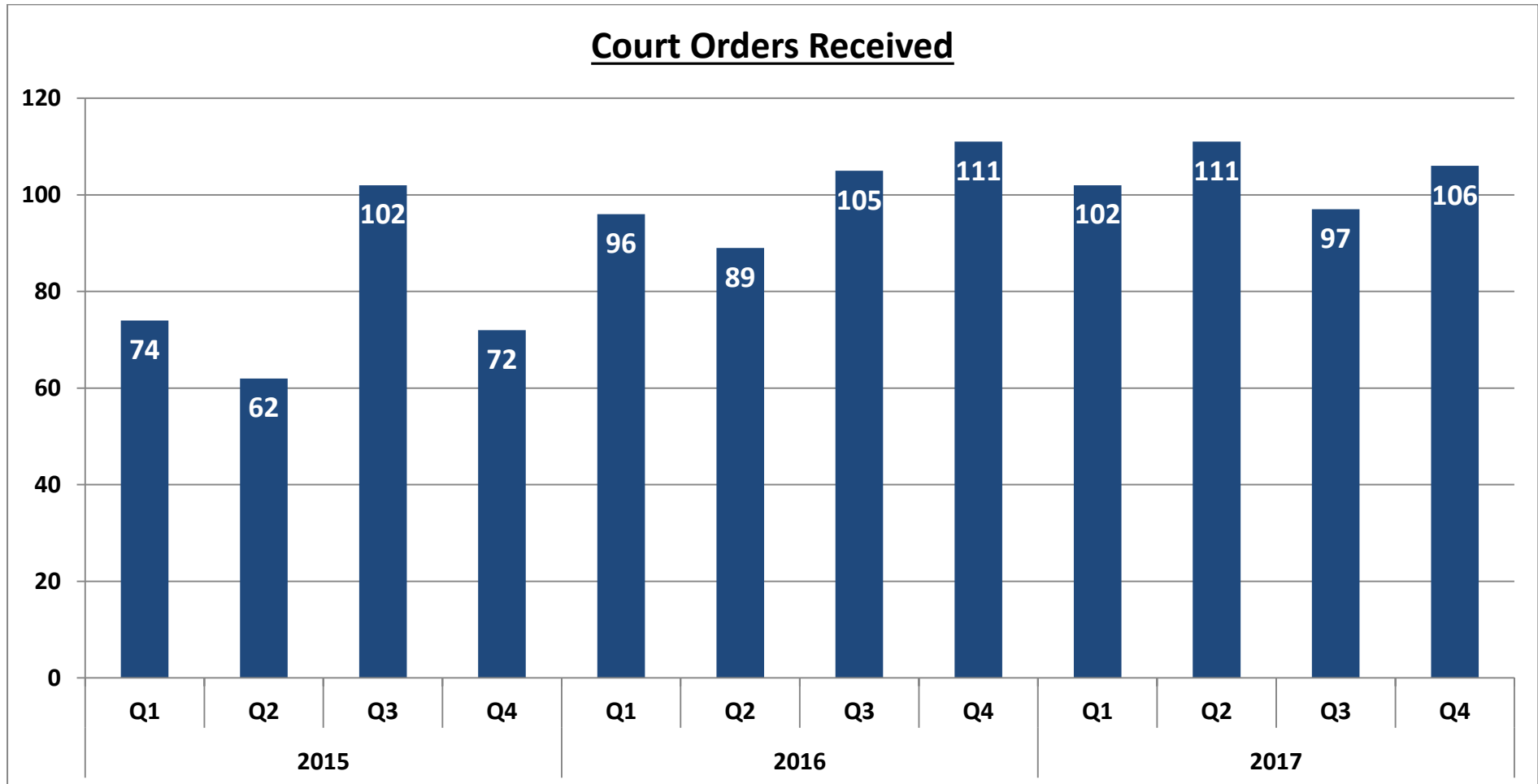
Appendix 2 – FOI disclosed – this chart shows that the number of FOI’s disclosed locally meets or exceeds the national average number disclosed in 8 months of 2017. It also shows, however, that the number of FOI’s disclosed outside of 20 days also exceeds the national average in 10 months of 2017 leading to a backlog of requests and an upward trend of numbers outside of the legislative deadline.



Appendix 3 – Subject Access Requests – this chart shows Nottinghamshire performance only as National Statistics are not routinely circulated from the National Group. The chart itself shows that SAR disclosures fall below the number of SARs received within the same period 10 months out of 12, this leads to an upward trend in the number of SAR requests being responded to outside of the legislative deadline



Appendix 4 – Court Orders – this chart again shows Nottinghamshire performance only as National Statistics are not routinely circulated from the National Group. This shows an upward trend in the number of Court Orders being received over the last 3 years. On average 91% of all Court Orders received have been responded to within the order deadline over this three year period as they are prioritised over other types of request.



**Appendix 5 – Extract from Corporate Development Departmental Risk – this extract identifies the Information Management risks relating to legislative compliance.**



Corporate  
Development Risk Re:

# Corporate Development RISK REGISTER

Ref	Strategic Objective	Risk Theme	Risk Description	Aspirational Risk Score aka Risk Appetite			Risk Owner	Inherent Risk Score			Strategic Risk Management Strategy: Treat; Tolerate; Transfer; Terminate	Current Risk Score			Strategic Risk Management Strategy: Treat; Tolerate; Transfer; Terminate	Planned Controls	Owner	PRIORITY	Delivery Date	Risk Trend
	Identify which strategic objective the risk is aligned to.	Need the definition here	Fully described in language that clearly identifies the potential EVENT that gives rise to a CONSEQUENCE that has an IMPACT.	Likelihood	Impact	Risk Rating	IAO or Delegate	Likelihood	Impact	Risk Rating	Treat (2)	Likelihood	Impact	Risk Rating	Treat	Identification of additional pragmatic, appropriate and cost effective mitigation controls.	Task owner IAO or Delegate		Anticipated control delivery date	Comments and \or Simple graphic to show periodic change
CD_RID_001	Performance\Service Delivery	Non-Compliance	Potential for failure to meet statutory Disclosure deadlines and putting child safety at risk due to imminent loss of experienced member of staff and current backlog of requests (See CD_RID_001 for full detail).	2	2	4	Julie Mair	4	4	16	Treat (2)	3	4	12	Treat	Continue development of current staff.	LF		31/30/2018	
																Imminent advertisement of vacancy subject to job description review and application to uplift working hours from 30 hours pw to 37 hours pw	LF		31/11/2017	
																Implement new process and procedure to aid management of demand and reduce wasted time or resource capability.	LF		31/03/2017	
																Introduction of Two Way Interface between Niche RMS (RM Forces) and Case Management system (CPS), plus introduction of Digital Evidence Management Solution (DEMS) such that loss of physical media and emails containing personal information will be drastically recuded.	DEMP Project		TWIF 2018 and DEMS 2018/2019	
CD_RID_002	Performance\Service Delivery	Non-Compliance	Risk of non-compliance with Data Protection Act which could bring the force into disrepute and could lead to breaches, further scrutiny from the Information Commissioner.				Julie Mair	4	4	16	Treat (2)					Ongoing review of workload	PS/LF			

CD\_RID\_011

**INFORMATION MANAGEMENT -**  
History of recruitment to the IM team – loss of knowledge and experience through the restructure process and a history of difficulties in recruitment means that the team are unable to meet the current demand.  
This backlog has led to an increase in ICO complaints which could result in enforcement action and fines. The more this backlog develops the more likely we are to trigger a requirement for review  
There are many roles within IM which are single person dependent – this creates a huge risk if that person leave  
Within the Disclosure Unit loss of knowledge and experience as a result of the restructure has led to demand not being met and a backlog has developed. An increase in the type of demand across some complex areas has compounded the backlog – this is a national trend.  
There has been a doubling of the requests from Social care over the past year. Whilst Op Socius has now finished the backlog remains.  
A complaint has been received by the Information Commissioner with non-adherence to legislative deadlines part of the complaint and two complaints are also being investigated by Professional Standards which again make reference to the requests being overdue their legislative deadline

Other members of the IM team have been supporting the Disclosure work backlog - due to resignations of key staff at the end of March 2018 there are fewer resources to provide support at this time.

A review of the demand is required – there are opportunities to review processes and reduce some types of demand

A review of the resources required is currently taking place by the BIT Team leading to a hybrid Business Case to FEB in early August 2018

Ongoing review of workload

PS/LF