

<b>CITY OF WOLVERHAMPTON COUNCIL</b>	<b>Cabinet (Performance Management) Panel</b> 18 March 2019
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<b>Report title</b>	Information Governance Quarter Three Performance and General Data Protection (GDPR) Update Report	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Val Gibson Governance	
<b>Key decision</b>	No	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	All	
<b>Accountable Director</b>	Kevin O'Keefe, Governance	
<b>Originating service</b>	Information Governance	
<b>Accountable employee</b>	Anna Zollino-Biscotti	Information Governance Manager and Data Protection Officer 01902 555166 <a href="mailto:Anna.zollino-biscotti@wolverhampton.gov.uk">Anna.zollino- biscotti@wolverhampton.gov.uk</a>
	Tel	
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<b>Report to be/has been considered by</b>	Corporate Leadership Team Information Governance Board	5 March 2019 9 April 2019

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### Recommendations for decision:

The Cabinet (Performance Management) Panel is recommended to:

1. Review the quarterly progress update on the General Data Protection Regulation (GDPR).
2. Review the quarter three performance for Information Governance.

## **1.0 Purpose**

- 1.1 To provide an update on the Information Governance performance figures for quarter three 2018-2019.
- 1.2 To provide a quarterly update on the work currently being undertaken by the Information Governance (IG) team and directorates following the implementation of the General Data Protection Regulation (GDPR).

## **2.0 General Data Protection Regulation**

### **Background**

- 2.1 On 14 April 2016, the EU Parliament approved the General Data Protection Regulation. In the following October, the Government confirmed that it will implement the GDPR in the UK and that the UK's decision to leave the EU will not affect the commencement of the GDPR. The new regulations have replaced the Data Protection Act 1998 and the Information Commissioner's Office (ICO) will continue to be the supervisory authority for the UK.
- 2.2 In April 2017, the Government issued a consultation document to consider the derogations (exemptions) within the GDPR where the UK can exercise discretion over how certain provisions are applied.
- 2.3 In September 2017, the Data Protection Bill was published setting out new standards for protecting general data in accordance with GDPR and preserving certain other exemptions of the current Data Protection Act 1998.
- 2.4 The Data Protection Act 2018 was given Royal Assent on 23 May 2018. The General Data Protection Regulation came into force on 25 May 2018 and provides an accountability-based framework for data protection in Europe.
- 2.5 In preparation for the new regulation, a GDPR work programme was developed, drawing on regional collaborative work completed with other local authorities. This was approved in July 2017 and this report provides the sixth quarterly update to the Cabinet (Performance) Panel on progress to date.

### **Progress to date and next steps**

- 2.6 The GDPR programme of work is now concluding and moving towards a business as usual status. Any outstanding work not completed directly through the work programme will form part of core business activities from quarter one 2019, this includes refresher or targeted training which will be requested and delivered through the normal channels.
- 2.7 Teams continue to focus on the completion of key tasks identified from the initial GDPR review and readiness audit conducted by Audit Services in May 2018. The main areas of work identified by the initial audit were the completion of individual Information Asset Registers and the completion of individual department/team GDPR matrices, the latter of

which ensures that teams have carried out the various activities required to remain compliant with the new data protection laws.

2.8 Further compliance checks and audits will be scheduled throughout the year that follow on from the initial GDPR readiness audit and will be aligned to the statutory Data Protection Officer (DPO) reporting framework that was recently agreed at the last Information Governance Board (December 2018). This will ensure that compliance with the new Regulation and UK Data Protection laws will be monitored and reported on an ongoing basis once this work programme has ended.

2.9 No formal communications on GDPR were scheduled in this last quarter, however, reminders and updates on data protection and information security will continue to be published as and when required; either following a business need, incident or direction from the ICO.

### **3.0 Quarter three Information Governance performance reporting**

#### **Background and context**

3.1 The ICO has been interacting with the Council on information governance matters for several years. Considerable improvements have been made since their consensual audits in 2011 and 2012, which focused on requests for personal data (Subject Access Requests - SAR) and Freedom of Information (FOI).

3.2 Work has continued since the conclusion of the audit and a strategic approach to Information Governance has been adopted to ensure that the Council appropriately manages its information assets. Considerable improvements have been made in terms of processing information requests and the Council's overall statutory response rates have improved dramatically over the last five years.

3.3 To ensure ongoing improvements with information governance this report outlines current performance.

#### **Progress for quarter three**

3.4 The IG performance figures for quarter three are contained in appendix 1

3.5 FOI Freedom of Information and Environmental Information (FOI/EIR) – 252 requests for Freedom of Information and Environmental Information were received this quarter, which shows a 77 decrease in volumes from the last quarter (329). All but two requests were responded to within the statutory 20-day timeframe, which again equates to a response rate of 99% for the quarter.

3.6 Data Protection (DP/SAR) – 97 requests were received this quarter. All requests (100%) were responded to within the 30 calendar-day statutory timeframe, which demonstrates a 2% increase from the last quarter.

3.7 Information Incidents – 35 incidents were reported to the IG team this quarter. This is the highest number of incidents reported for the last four quarters and takes the overall total of information incidents reported for the year to 80. As mentioned in previous quarterly reports, this was an expected result as we anticipated that the number of incidents reported for 2018-2019 would exceed that of previous years, due to the impact of GDPR and the new Data Protection Act and the amount of awareness raising with employees that has been carried out to prepare for the changes in law. Volumes are indicative of the fact that employees are now more aware of what constitutes a breach and of the channels to report them. All incidents reported were of the low to low/medium risk category.

#### **4.0 Evaluation of alternative options**

4.1 No alternative options have been considered or evaluated since this report is to provide an update on progress in terms of IG performance.

#### **5.0 Reasons for decision(s)**

5.1 No decisions have been presented for approval since this report is an update on progress in terms of IG performance.

#### **6.0 Financial implications**

6.1 There are no financial implications associated with this report as Councillors are requested to review the information governance performance figures and note the progress made on the GDPR programme of work. All work associated with delivery of training and meeting information governance requirements is covered through existing budgets.

6.2 It is worth noting, however, that a failure to effectively manage information governance carries a financial risk. Inaccurate and out of date information can lead to poor decision making and a potential waste of financial resources. Following the implementation of GDPR, a two-tiered sanction regime with higher financial penalties will be adopted. Lesser information incidents will be subject to a maximum fine of either €10 million or 2% of an organisation's global turnover, whichever is greater. More serious violations could result in fines of up to €20 million or 4% of turnover.  
[ES/26022019/J]

#### **7.0 Legal implications**

7.1 The Council has a legal duty under the current Data Protection Act 2018, GPDR 2016/679, Freedom of Information Act 2000 and Environmental Information Regulations 2004 to appropriately manage and protect information assets.

- 7.2 The integration of Public Health into the Council in April 2012 required the Council to provide assurance to the NHS that it had in place suitable Information Governance policies, procedures and processes.
- 7.3 Failure to effectively manage information governance could increase risk of exposure to fraud and malicious acts, reputational damage, an inability to recover from major incidents and potential harm to individuals or groups due to inappropriate disclosure of information.
- 7.4 The Information Commissioner has the legal authority to:
- Fine organisations for breaches of Data Protection 2018 or Privacy & Electronic Communication Regulations. With the implementation of the GDPR on 25 May 2018, a two-tiered sanction regime has been introduced and higher financial penalties will be adopted by the ICO. Lesser information incidents could be subject to a maximum fine of either €10 million or 2% of an organisation's global turnover, whichever is greater. More serious violations could result in fines of up to €20 million or 4% of turnover.
  - Conduct assessments to check organisations are complying with the Act.
  - Serve Enforcement Notices and 'stop now' orders where there has been a breach of the Act, requiring organisations to take (or refrain from taking) specified steps to ensure they comply with the law.
  - Prosecute those who commit criminal offences under section 170 of the DPA 2018 (previously section 55 of the 1998 Act.)
  - Conduct audits to assess whether organisations processing of personal data follows good practice.
  - Report issues of concern to Parliament.
- 7.5 Demonstration of the Council's compliance with the current Data Protection Law protects it from legal challenges for alleged breaches of individuals' rights.  
[TS/25022019/D]

## **8.0 Equalities implications**

- 8.1 Having considered the equalities issues presented under the new legislation - Data Protection Act 2018 and GDPR 2016/679, no new implications have been identified from associated actions or recommendations of this report.
- 8.2 Any new equalities issues that become apparent as the programme of work progresses will undergo an initial screening and if appropriate will be followed by a full equalities analysis.

## **9.0 Environmental implications**

9.1 There are no environmental implications identified.

## **10.0 Human resources implications**

10.1 Working practices to support the adoption of GDPR controls and measures will be incorporated into existing Information Governance and HR policies.

## **11.0 Corporate landlord implications**

11.1 There no direct corporate landlord implications identified.

## **12.0 Health and Wellbeing Implications**

12.1 There are no health and wellbeing implications identified.

## **13.0 Schedule of background papers**

13.1 Strategic Executive Board – Briefing note on GDPR – July 2017

11.2 Strategic Executive Board Report – Approach to GDPR – January 2017

## **14.0 Appendices**

14.1 Appendix 1 - Quarter three 2018-19 info-graph