

## Cabinet (Performance Management) Panel

4 December 2017

<b>Report title</b>	Information Governance Quarter Two Performance and General Data Protection Regulations Update Report	
<b>Cabinet member with lead responsibility</b>	Councillor Milkinderpal Jaspal Governance	
<b>Corporate Plan outcome</b>	Future Performance	
<b>Wards affected</b>	(All Wards);	
<b>Accountable Director</b>	Kevin O'Keefe, Director of Governance	
<b>Originating service</b>	Democratic Services	
<b>Accountable employee</b>	Anna Zollino-Biscotti	Information Governance Manager
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<b>Report to be/has been considered by</b>	Strategic Executive Board	21 November 2017
	Scrutiny Board	5 December 2017
	Information Governance Board	14 December 2017

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### Recommendation(s) for action or decision:

The Cabinet (Performance Management) Panel is recommended to:

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

## **1.0 Purpose**

- 1.1 To provide an update on the Information Governance performance figures for quarter two.
- 1.2 To provide a quarterly update on the work currently being undertaken by the Information Governance (IG) team and directorates in preparation for the General Data Protection Regulations (GDPR).

## **2.0 General Data Protection Regulation (GDPR)**

### **Background and context**

- 2.1 On 14 April 2016, the EU Parliament approved the General Data Protection Regulation (GDPR). The regulation is due to come into effect on 25 May 2018 to provide an accountability based framework for data protection in Europe.
- 2.2 In October 2016, 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 will replace the current Data Protection Act 1998 and the Information Commissioner's Office (ICO) will continue to be the supervisory authority.
- 2.3 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.
- 2.4 In September 2017, the Data Protection Bill was published and sets out the new standards for protecting general data in accordance with GDPR and preserving certain other exemptions of the current Data Protection Act 1998. The Bill will result in a new Data Protection Act replacing the current Data Protection Act (1998) and will add clarity on how the UK will apply statutory controls to areas of the GDPR where Member States have been given some flexibility i.e. the derogations. As and when the UK leaves the EU the new Data Protection Act would replace the GDPR.
- 2.5 In preparation for the new regulation, a GDPR work programme has been developed, drawing on regional collaborative work completed with other local authorities. This was approved in July 2017 and this report provides the first quarterly update to the Board on progress to date, since approval.

### **Programme of work overview**

- 2.6 A training Needs Analysis (TNA) and communication plan was completed at the start of the project to identify the level of engagement required by each service area. This ranges from those who only need to be aware of the changes, as little or no personal data is processed by the service, to those who need to be actively engaged in the programme.

- 2.7 Using the information identified from the TNA, a matrix has been produced to identify those departments who are key stakeholders in GDPR work. A training priority has been assigned to each department. Appendix A shows the list of departments and the priority status given – 1 being high priority.
- 2.8 To ensure maximum engagement with minimum disruption, training and awareness briefings are taking place at regular team or departmental meetings. Where workshops are required, these are also being led by the IG team and comprise of a pre-booked two-hour session to review areas of impact and devise service specific action plans. Progress against the plan is then monitored throughout the duration of the project, and revisited where required.

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

- 2.9 A Project Manager from the Council's Programme Office was assigned to the project in August 2017 and is currently working with the IG team to support the project and to monitor ongoing progress against milestones.
- 2.10 In line with the communication plan, a City People article headlining the new regulation was published in July 2017, along with a GDPR briefing document that staff could download for further information about the impending changes. Further communications have been scheduled before the year end and at key points in quarter four 2018. These include City People articles and updates in Core Brief, in addition to IG surgeries. Webinars are also being considered whereby staff can log into a presentation or Q & A session with the IG team on GDPR.
- 2.11 The IG team have presented an overview of the GDPR at all Senior Leadership meetings. This has enabled the IG team to plan future team specific, face to face, briefing sessions and matrix workshops. Progress to date on the latter is on track, despite resource issues experienced with the team during quarter two.
- 2.12 Appendix One shows the service areas across the Council who have received GDPR training and awareness to date, either through briefings or workshops. The majority of service areas who are key stakeholders and who have a high training priority have either received training and are progressing individual action plans or are scheduled to do so by the end of quarter three. Those service areas where the IG team have yet to engage with at operational level, are in the most part, teams who have a low training priority and who therefore can be trained at a later point in the year.
- 2.13 The IG team are currently reviewing a GDPR e-learning module provided by the Learning Hub. This can be configured to meet the Council's needs. Once available, this will provide a blended training delivery solution and will further support and enhance the current learning methods. Publication of the module is planned for quarter four.

- 2.14 Separate to the GDPR work programme, discussions are currently being held with DTP and VisionWare (external suppliers of the Master Data Management solution) to take advantage of development they are embarking on regarding Consent Management under GDPR. This is in its early stages and the Board will be updated on the viability of the development once more is known.

### **3.0 Quarter two 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 In order to ensure ongoing improvements with information governance this report outlines current performance.

#### **Progress for quarter two**

- 3.4 The IG performance figures for quarter two are contained in appendix two.
- 3.5 FOI – 251 requests were received for Freedom of Information which is slightly less than last quarter. All but two valid requests were responded to within the statutory 20-day timeframe, which equates to a 99% response rate. This was the result of one late submission of information and one request where there was a query at authorisation, resulting in a delay in issuing the final response to the requester.
- 3.6 EIR- 26 requests were received for environmental information this quarter. 24 of these requests were valid requests and all (100%) were responded to within the statutory 20-day timeframe. Further clarification was requested for two of these requests, both of which have received a nil response and therefore will be closed after 90 days if no further information is received. 23 of the total 26 requests received were single directorate requests, whereby information was held by one directorate.
- 3.7 DP- 83 requests were received for Data Protection this quarter which is a slight decrease compared to those requests received last quarter, however volumes remain consistent to those received in previous quarters of the last reporting year. The response rate for this quarter is 99%, as one request was responded to outside of the statutory 40-day timeframe. This was due to information being received late by the business area.

3.8 The number of information incidents reported for the quarter has doubled as 18 incidents have been reported. This is also slightly higher than number of incidents reported for quarter 2 in the previous two years (13 in 15/16 and 13 in 16/17). The trend in incident type remains the same however, as 16 out of the 18 incidents reported (89%) were of the incident type “Disclosed in error”. All of the incidents reported were in the low risk category.

#### **4.0 Financial implications**

4.1 There are no financial implications associated with this report as the Board are requested to review the progress made on information governance and review progress on the GDPR programme of work.

4.2 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. In addition to this, poor information governance can currently result in a fine of up to £500,000 from the ICO.

4.3 In addition, the GDPR brings with it higher financial penalties and a two-tiered sanction regime will be adopted – where the lesser information incidents are subject to a maximum fine of either €10 million (£7.9 million) or 2 percent of an organisation's global turnover (whichever is greater). The most serious violations could result in fines of up to €20 million or 4 percent of turnover (whichever is greater).  
[SR/20112017/D]

#### **5.0 Legal implications**

5.1 The Council has a legal duty under the current Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004 to appropriately manage and protect information assets.

5.2 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.

5.3 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.

5.4 The Information Commissioner has the legal authority to:

- Fine organisations up to £500,000 per breach of the Data Protection Act or Privacy & Electronic Communication Regulations.
- 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 in order to ensure they comply with the law.
- Prosecute those who commit criminal offences under section 55 of the Act.
- Conduct audits to assess whether organisations processing of personal data follows good practice.
- Report issues of concern to Parliament.

5.5 Demonstration of the Council's compliance with the current Data Protection Act 1998 and with GDPR going forward protects it from legal challenges for alleged breaches of individuals' rights.

[ TS/20112017/W]

## **6.0 Equalities implications**

6.1 Having considered the equalities issues presented under the current Data Protection Act 1998, we believe that no new implications have been identified from associated actions or recommendations of this report.

6.2 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.

## **7.0 Environmental implications**

7.1 There are no environmental implications identified.

## **8.0 Human resources implications**

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

## **9.0 Risk implications**

9.1 Risks identified from the GDPR project will be managed at project level, and will be reported through to the Information Governance Board.

## **10.0 Corporate landlord implications**

10.1 There no direct corporate landlord implications identified.

## **11.0 Schedule of background papers**

Strategic Executive Board – Briefing note on GDPR – July 2017

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