

Cabinet (Performance Management) Panel

5 March 2018

Report title	Information Governance Quarter Three Performance and General Data Protection Regulation (GDPR) Update Report	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Milkinderpal Jaspal Governance	
Corporate Plan priority	Confident Capable Council	
Key decision	No	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Director	Kevin O'Keefe, Director of Governance	
Originating service	Governance	
Accountable employee	Anna Zollino-Biscotti	Information Governance Manager 01902 555166 Anna.zollino-biscotti@wolverhampton.gov.uk
Report to be/has been considered by	Strategic Executive Board	20 February 2018
	Governance Directorate	
	Leadership Team	22 February 2018
	Information Governance Board	22 March 2018

Recommendations for noting:

The Cabinet (Performance Management) Panel is recommended to:

1. Review and comment on the quarterly progress update on the General Data Protection Regulation project and feedback any further action that may be necessary.
2. Review and comment on the quarter three performance for Information Governance and feedback any further action that may be necessary.

1.0 Purpose

- 1.1 To provide an update on the Information Governance performance figures for quarter three.
- 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 Regulation (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 second quarterly update to the Panel on progress to date.

Progress 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 1 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 The GDPR programme of work continues and is on plan. Appendix 1 shows the service areas across the Council who have received GDPR awareness training to date, either through briefings or workshops. Most service areas who are key stakeholders and who have a high training priority have received training and are now progressing individual action plans. Monitoring of these plans is ongoing. Only a handful of high priority teams are outstanding and engagement with them has been made with training dates being scheduled in for completion by the end of March 2018.
- 2.10 Training has also extended to support wider council relationships, with the delivery of GDPR presentations to Tenancy Management Offices (TMOs), Wolverhampton Homes, Head Teacher forums, and the Safer Wolverhampton Partnership Board. In addition, Councillors have also received training with twenty councillors recently attending face to face GDPR drop-in sessions.
- 2.11 The next phase of training will target those service areas where the IG team have yet to engage with at operational level, and who are in the most part, teams who have a low training priority. Awareness raising for these teams will be more general, and will be in the format of briefings and bulletins to suit the particular audience, as opposed to specific presentations and workshops; unless a need is identified. This will continue throughout quarter four.
- 2.12 As the demand for face to face training reduces, the IG team's focus will be on completing corporate and service specific operational tasks in the following months until go live. Tasks include reviewing, updating and creating GDPR compliant policies, processes and procedures; corporate template documents, such as Privacy Notices, consent forms and mandatory Data Impact Assessments, to name just a few.
- 2.13 Support will also continue with Legal and Procurement teams to finalise and update contractual documents to make them GDPR compliant and to ensure that the Council's third-party suppliers are aware of the changes the new regulation brings regarding accountability and liability.
- 2.14 A GDPR Service Level Agreement (SLA) is also being prepared for publication between February – March 2018. This will complement the existing Information Governance consultancy offering in place for schools and will also be extended to TMOs to support them through the regulatory changes of GDPR and provide ongoing support on general Information Governance.

2.15 In line with the project's communication plan, a series of City People and Core Brief articles are being drafted and will be published at key points during March, April and May 2018. An IG team intranet portal is also being developed. This will support employees on general information governance matters and particularly GDPR, and will provide another means of communicating updates and reminders, provide links to GDPR compliant templates and forms and other supportive learning materials, such as the new GDPR e-learning module that will be available for employees to use from the end of March 2018.

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 2.
- 3.5 Freedom of Information and Environmental Information (FOI/EIR) – 287 requests were received for Freedom of Information and Environmental Information which is slightly more than last quarter. All but one valid request was responded to within the statutory 20-day timeframe, which equates to a 99% response rate. This was the result of an administrative error with the IG team.
- 3.6 Data Protection (DP/SAR) - 137 personal data requests were received this quarter which is a substantial increase in volume (54) compared to the number of requests received last quarter. The response rate for this quarter is steady at 99%, despite the increase in volume, as one request was responded to outside of the statutory 40-day timeframe. This was due to the request not being identified as a formal Subject Access Request by the business area and not being sent to the IG team to process until after the statutory deadline had passed.
- 3.7 Information Incidents - the number of information incidents reported for the quarter has halved; nine incidents have been reported compared to 18 reported in quarter two of this year. All incidents reported were of the low risk category.

4.0 Financial implications

- 4.1 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.
- 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. When the GDPR comes into effect, 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.
[GE/14022018/G]

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/14022018/Q]

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 Corporate landlord implications

- 9.1 There no direct corporate landlord implications identified.

10.0 Schedule of background papers

- 10.1 Strategic Executive Board – Briefing note on GDPR – July 2017
- 10.2 Strategic Executive Board Report – Approach to GDPR – January 2017

11.0 Appendices

- 11.1 Appendix 1 – GDPR progress
- 11.2 Appendix 2 – Quarter three 2017-18 info-graph