

Cabinet (Performance Management) Panel

17 September 2018

Report title	Information Governance Quarter One Performance and General Data Protection (GDPR) Update Report	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Val Gibson Governance	
Corporate Plan priority	Confident Capable Council	
Key decision	No	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Director	Jennifer Brake	
Originating service	Information Governance	
Accountable employee	Anna Zollino-Biscotti	Information Governance Manager & DPO 01902 555166 Anna.zollino- biscotti@wolverhampton.gov.uk
Report to be/has been considered by	Place Leadership Team	3 September 2018
	Strategic Executive Board	4 September 2018
	Information Governance Board	1 October 2018

Recommendations for decision:

The Cabinet (Performance Management) Panel is recommended to:

1. Review the quarterly progress update on the General Data Protection Regulation.
2. Review the quarter one performance for Information Governance.

1.0 Purpose

- 1.1 To provide an update on the Information Governance performance figures for quarter one 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 (GDPR)

Background and context

- 2.1 On 14 April 2016, the EU Parliament approved the General Data Protection Regulation (GDPR). 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. The Bill will result in a new Data Protection Act replacing the 1998 Act 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.
- 2.4 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 fourth quarterly update to the Cabinet Performance Panel on progress to date.

Progress to date and next steps

- 2.6 The GDPR programme of work continues and is on plan. GDPR training sessions have now been delivered to most service areas now across the Council, either through briefings, scheduled workshops or additional drop-in sessions. These sessions have been delivered throughout the year, with demand increasing in the run up to the implementation of the regulation. As a result, three full day drop-in sessions were held in

May 2018 along with nine further trainings sessions; a total of 88 employees attended these sessions. Training for employees will continue on an adhoc basis, as and when teams identify a requirement.

- 2.7 Training has also been offered and delivered to Councillors. In addition to the Councillor sessions held in January and May 2018, further mop-up sessions were held in the scheduled Councillor Development Sessions on 4 July 2018. To supplement the training provided, a Councillor Information Pack was developed by the Information Governance team and has been provided to all Councillors. The pack comprises of key GDPR compliant template documents, guidance notes and check lists to support Councillor's compliance with the regulation, as individual Data Controllers.
- 2.8 The IG Team's focus over the last two quarters has been on completing corporate and service specific operational tasks and supporting teams in updating their own policies and procedures to ensure compliance. The following key documents were updated and published on the Council's website prior to 25 May 2018: Data Protection Policy; Council Full Privacy Notice; Adult Services and Children Services Privacy Notice; Records Management Policy and Breach Management policy. In addition to the above, internal documents, such as the new Data Privacy Impact Assessment (DPIA) - which is now a mandatory requirement of GDPR – have been developed or updated and are now in use.
- 2.9 The IG team has seen an increase in the volume of general GDPR queries from teams in this quarter and more specifically, requests from service areas requiring support with the completion of DPIAs and Information sharing agreements. Support to teams is ongoing and where a specific learning need is identified, further workshops or drop-in sessions will be held.
- 2.10 As part of the approved internal audit plan for 2018-2019, a health check was conducted by Audit Services in May 2018 to assess the Council's progress in implementing GDPR and to provide assurances that the Council had the appropriate systems and controls in preparation for the implementation phase of the new regulation. The audit concluded that satisfactory assurances were in place with some further work to be completed in line with the GDPR work programme. The findings of the report were published and presented to Strategic Executive Board (SEB) in July 2018 with subsequent actions being disseminated across all directorates. Progress against the work programme and the actions from the audit will continue to be monitored by the IG team and a further update report will be presented to the IG Board and SEB in future months.
- 2.11 To ensure that changes have been applied and embedded across the Council, a second more detailed, audit will be scheduled in late Autumn 2018.
- 2.12 In line with the project's communication plan, a series of City People and Core Brief articles were published during May 2018. Reminders and updates on GDPR will continue to be published as and when required, either following a business need or following updates from the ICO. The IG team intranet portal is being developed and work is in progress with ICT. The portal will support employees on general information governance

matters and GDPR, providing links to GDPR compliant templates, forms and other supportive learning materials. The new GDPR e-learning module went live in April which provides employees with another learning resource, in addition to the existing package of Information Governance e-learning modules that are already in place.

3.0 Quarter one 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 one

- 3.4 The IG performance figures for quarter one are contained in appendix 1.
- 3.5 Freedom of Information and Environmental Information (FOI/EIR) – 340 requests were received for Freedom of Information and Environmental Information which is slightly more than last quarter (317). All requests were responded to within the statutory 20-day timeframe, which equates to a 100% response rate for the first quarter of this financial year.
- 3.6 The number of FOI/EIR requests received for quarter one is higher than those received in quarter one of the previous year, with 77 more requests being received to date. The reasons for the increase are unknown, and it remains to be seen if this is an indicative trend for the rest of the year.
- 3.7 Data Protection (DP/SAR) - 145 personal data requests were received this quarter. Although this is a slight decrease compared to the last quarter, more requests were received in the last month of the quarter, which is the first full month following the new GDPR regulation being implemented and the abolishment of the £10 standard fee. The response rate for this quarter remains at the 98% mark; three requests out of the 145 received were responded to outside of the statutory timeframe.

3.8 Information Incidents – the number of incidents reported for the quarter has increased slightly; 23 incidents have been reported compared to seventeen reported in quarter four last 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. 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.

[MH/29082018/S]

5.0 Legal implications

5.1 The Council has a legal duty under the current Data Protection Act 2018, GDPR 2016/679, 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 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.

5.5 Demonstration of the Council's compliance with the current Data Protection Law protects it from legal challenges for alleged breaches of individuals' rights.
[RB29082018/B]

6.0 Equalities implications

6.1 Having considered the equalities issues presented under the new legislation - Data Protection Act 2018 and GDPR 2016/679 and the previous Data Protection Act 1998, 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 – Quarter One 2018-19 info-graph