

6 March 2019

Regulatory and Governance Committee

Data Protection Act 2018 Progress Report

Report of: *Lee Henley - Data Protection Officer*

Wards Affected: *No wards specifically*

This report is: *Public*

1. Executive Summary

- 1.1 The Council are making good progress in improving and embedding its processes in relation to the Data Protection Act 2018. This report sets out work undertaken and details further work to embed compliance going forward.

2. Recommendation

- 2.1 That the Committee note the actions being taken by the Council in relation to the Data Protection Act 2018.**

3. Introduction and Background

- 3.1 The Data Protection Act 2018 and the General Data Protection Regulation (GDPR) came into effect in May 2018 and introduced a range of new requirements regarding the processing of personal data.
- 3.2 Organisations will always have on-going work to achieve compliance with Data Protection Legislation and work programmes will be fluid due to this. The Information Commissioner's Office has recognised this and will want an assurance that action plans are in place to move Data Protection best practice forward.
- 3.3 Under the new Data Protection Act 2018, the fines available have been significantly increased and may be imposed for **any** infringement of the Regulation, not just data security breaches.
- 3.4 The Information Management Team at Thurrock Council has been commissioned to provide support to Brentwood in relation to Data

Protection. Thurrock commenced work at Brentwood in June 2018 and begun by carrying out a review of the existing processes.

4.0 Progress to date regarding the new Data Protection Act

4.1 This paper captures the actions taken to ensure that the Council maintains compliance with the Data Protection Act. It follows on from the previous report produced for committee on the 28 November 2018.

4.2 A summary of key changes due to the new Data Protection Act, along with the estimated timeline for the completion of the work programme is detailed within the table below. **Note** – The delivery of these timeframes will be dependent on the work of the Information Asset Owners, who are responsible for ensuring systems have robust Information Governance arrangements in place.

| Key Changes due to Data Protection Act | Progress Made | Estimated Completion Timelines |
|--|--|--------------------------------|
| <p>Authorities are now required to demonstrate that they comply with the new law (evidence based).</p> | <p>Completed work:</p> <ul style="list-style-type: none"> • Members: <ul style="list-style-type: none"> ○ All member briefing session held on 5 February 2018. ○ On line training on Data Protection was issued on 15 February 2018. ○ Further guidance and face to face training was provided on 21 and 23 May 2018. • There is an existing Data Protection Policy and a range of other policies have been put in place (e.g. Retention and Data Breach Policies). • Mandatory Information Governance training has been amended and rolled out to staff in January. The deadline for staff to complete this training was 8 February. • Individuals Rights content has been provided on the internet (public view). • Information for staff has been provided on the intranet (staff view). • An Information Risk Framework | |

| Key Changes due to Data Protection Act | Progress Made | Estimated Completion Timelines |
|---|---|---|
| | <p>has been produced to identify risks to key information assets.</p> <ul style="list-style-type: none"> • Contracts have been reviewed to ensure they are Data Protection compliant. • Information Systems have been checked to ensure they meet the “Right to be forgotten” and “Data Portability” requirements <p>Work to be completed:</p> <ul style="list-style-type: none"> • Information Asset Owners to undertake actions in-line with the Information Risk Framework. • To finalise the review of additional Information Governance related policies. • To roll out the refreshed Data Protection Training to Members in February with a deadline for completion of 31 March 2019. • To provide a members training workshop on data protection during March 2019. | <p>31/03/19</p> <p>31/03/19</p> <p>31/03/19</p> <p>31/03/19</p> |
| <p>Legal requirement for breach notification within 72 hours to the Information Commissioner’s Officer (ICO).</p> | <p>Completed work;</p> <ul style="list-style-type: none"> • A Data Protection incident reporting procedure has been produced. • The incident reporting and risk assessment process has been amended. <p>Note – There have been no incidents requiring escalation to the ICO. Where incidents were reported, investigations were undertaken with appropriate feedback provided to those reporting incidents.</p> | |
| <p>Significantly increased penalties possible for any breach of the legislation (not just data breaches).</p> | <p>Completed work:</p> <ul style="list-style-type: none"> • A comprehensive Data Protection action plan has been put in place. • An Information Governance Group has been set up to drive forward the work required on Data Protection. | |

| Key Changes due to Data Protection Act | Progress Made | Estimated Completion Timelines |
|--|---|---|
| | <p>Work to be completed:</p> <ul style="list-style-type: none"> • New starters to complete Information Governance training before joining the council. • A Data Protection Compliance Programme will need to be produced (e.g. Data Protection Audits). | <p>31/03/19</p> <p>31/03/19</p> |
| <p>Removal of charges for providing responses to Subject Access Requests (SARs).</p> | <p>Completed Work:</p> <ul style="list-style-type: none"> • A revised SAR procedure has been produced to reflect new timescales and the fact that most requests will be free of charge. <p>Note - Between June 2018 - January 2019, the Council received 8 SARs. All were processed within the statutory/legal timeframe.</p> | |
| <p>Requirement to keep records of data processing activities.</p> | <p>Completed work:</p> <ul style="list-style-type: none"> • Information Asset Owners (IAOs) for all key areas have been identified. <p>Work to be completed:</p> <ul style="list-style-type: none"> • Completion of Record of Processing Activities (ROPA) for key services. Approximately 90% of this work has been completed. | <p>31/03/19</p> |
| <p>Appointment of a Data Protection Officer (DPO).</p> | <p>Completed work:</p> <ul style="list-style-type: none"> • A DPO has been appointed. | |
| <p>Data Protection Impact Assessments (DPIA) are required for high risk processing and/or when using new technologies.</p> | <p>Completed work:</p> <ul style="list-style-type: none"> • A DPIA document has been produced. • The DPIA has been shared with the project team which considers new systems for the council. • The DPIA now forms part of the procurement process. | |
| <p>Specific requirements for transparency and fair processing.</p> | <p>Completed work:</p> <ul style="list-style-type: none"> • A Data Protection compliant privacy notice has been produced. • A detailed guide on Information rights under the Data Protection | |

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|--|--|--------------------------------|
| | <p>Act has been produced.</p> <ul style="list-style-type: none"> An incident reporting procedure has been produced which will result in certain breaches reported to regulatory bodies. Mid-tier service area privacy notices have been completed and published. | |

5 Implications

Financial Implications

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5.1 No direct financial implications arising from this report.

Legal Implications

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5.2 Non-compliance with Data Protection could lead to a range of enforcement measures imposed by the UK regulator for Data Protection (the Information Commissioner's Office). These measures can include financial penalties.

6 Background Papers

6.1 None

7 Appendices to this report

7.1 None

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