

**10 July 2019**

**Policy, Resources and Economic Development**

**Data Protection Officer**

**Report of:** *Chris Leslie – Executive Director of Commercial Services*

**Wards Affected:** *None directly*

**This report is:** *Public*

**1. Executive Summary**

1.1 This report recommends the appointment of the Council's Deputy Monitoring Officer as the Data Protection Officer.

1.2 The report also provides further information on the provision of data protection services by Thurrock Council.

**2. Recommendation(s)**

**2.1 That the Council's Deputy Monitoring Officer (Paula Harvey) be appointed the Data Protection Officer.**

**3. Introduction and Background**

3.1 The Data Protection Act 2018 to come into force on 23<sup>rd</sup> May 2018. It is a requirement that every company that collects or processes EU citizens' personal data must appoint a Data Protection Officer (DPO).

3.2 The DPO's responsibilities include, but are not limited to, the following:

- Educating the company and employees on important compliance requirements;
- Training staff involved in data processing;
- Conducting audits to ensure compliance and address potential issues proactively;
- Serving as the point of contact between the company and Information Commissioner's Office (ICO);

- Monitoring performance and providing advice on the impact of data protection efforts;
- Maintaining comprehensive records of all data processing activities conducted by the company, including the purpose of all processing activities, which must be made public on request;
- Interfacing with data subjects to inform them about how their data is being used, their rights to have their personal data erased, and what measures the company has put in place to protect their personal information.

3.3 To date Thurrock Council have provided information governance services and a DPO (Mr Lee Henley) to Brentwood Borough Council under a Memorandum of Understanding (MoU).

3.4 When appointing a DPO the following must be considered:

- The DPO must be independent, an expert in data protection, adequately resourced, and report to the highest management level;
- A DPO can be an existing employee or externally appointed;
- Other tasks can be assigned to the DPO, so long as they don't result in a conflict of interests with the DPO's primary tasks and/or resulting in data protection taking a secondary role in the organisation;
- It is important that other specialist officers are not referred to as a DPO, which is a specific role with particular requirements under legislation.
- To support the DPO, the Council must ensure that the DPO:
  - Is involved closely and in a timely manner, in all data protection matters;
  - Reports to the highest management level. This doesn't mean the DPO has to be line managed at this level but they must have direct access to give advice to senior managers who are making decisions about personal data processing;
  - Operates independently and is not dismissed or penalised for performing their tasks;
  - Is provided with adequate resources (sufficient time, financial, infrastructure, and, where appropriate, staff) to enable the DPO to meet their GDPR obligations, and to maintain their expert level of knowledge.

#### **4. Issue, Options and Analysis of Options**

4.1 An internal Data Protection Officer (DPO) is now being recommended and the Deputy Monitoring Officer role has been identified as a suitable designation. So the DPO is provided with adequate resources Thurrock Council will continue to provide support.

4.2 To ensure the Council has the necessary expertise and resources available the services of Thurrock's information governance team were engaged. There is a

pool of 8 experienced information governance officers the Council can draw on when required.

4.3 The Council pays £39k a year for these services, which includes all staffing costs and overheads. Thurrock also provides training resources at no additional charge. The MoU can be terminated by either party with 3 months' notice and is flexible to accommodate changes that maybe required. There is no specified end date.

4.4 Duties carried out by Thurrock include:

- To ensure the council has a robust Records of Processing Activity (ROPA) framework in place;
- To manage data protection incidents and make recommendations for change based on lessons learnt;
- To undertake data protection audits and make recommendations for change based on outcome;
- Prepare Committee reports;
- Maintain incident logs;
- To chair and manage the workload of the corporate wide Information Governance Group;
- To manage sharing requests both internally and with third parties;
- To implement a robust data protection and data security policy framework;
- To produce, lead and provide Information Governance training content for staff and Members;
- To link in with the ICO on all data protection related matters;
- To process subject access requests under the data protection act;
- To undertake Data Protection Impact Assessments (DPIA);
- To provide expert knowledge and experience of all data protection issues;
- Give advice on FOI exemptions.

## **5. Reasons for Recommendation**

5.1 This report was prepared at the Chair's request.

## **6. References to Corporate Plan**

6.1 This matches the Council's Transformation vision to "Explore alternative methods of service delivery, including shared services and outsourcing".

## **7. Implications**

**Financial Implications****Name & Title: Jacqueline Van Mellaerts, Director of Corporate Resources****Tel & Email: 01277 312829/jacqueline.vanmellaerts@brentwood.gov.uk**

- 7.1 Additional time required by an internal DPO, may cause resource constraints within existing budgets and departments. The current contract with Thurrock is £39k per year and will continue to provide support.

**Legal Implications****Name & Title: Daniel Toohey, Monitoring Officer****Tel & Email: 01277 312860/daniel.toohey@brentwood.gov.uk**

- 7.2 The legal implications are outlined in the report.

**Report Author Contact Details:****Name:** Chris Leslie – Executive Director of Commercial Services**Telephone:** 01277 312500**E-mail:** christopher.leslie@brentwood.gov.uk