

Committee(s): Policy, Resource and Economic Development	Date: 11 th September 2019
Subject: Data Protection Act Compliance Report	Wards Affected: None
Report of: Paula Harvey - Data Protection Officer	Public Report
Report Author: Paula Harvey - Data Protection Officer Telephone: 01277 312860 E-mail: paula.harvey@brentwood.gov.uk	For Decision

Summary

Members considered a report on progress regarding preparation for GDPR at its Regulatory and Governance committee on 6th March 2019, when it was reported that the Council was making good progress in improving and embedding its processes.

The Council continues to strengthen and improve 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. Key areas of progress since the previous report include the reviewing/updating of policies; rolling out Data Protection training to Members; providing Members training workshops; ensuring new starters complete the mandated Data Protection Training before system access is set up and to undertake Data Protection Audits across the Council.

At the time of writing this report, the Council is in a good position to evidence compliance with its data protection responsibilities. Robust data protection policies and procedures are in place and implementation is closely monitored. There have been no data breaches which required reporting to the ICO. All SARs have been completed within the statutory timeframe. Staff undertake mandatory training and maintain a good level of awareness of data protection responsibilities across the Council.

Recommendation(s)

Members are asked to:

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

Main Report

Introduction and Background

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.
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. 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.
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. Compliance work is now on-going to ensure services have in place adequate arrangements in-line with the Data Protection Act.
5. Paula Harvey (Corporate Governance Solicitor & Deputy Monitoring Officer) was appointed Data Protection Officer in July at Policy, Resources & Economic Development (PRED) Committee.

Progress to date regarding the new Data Protection Act

6. 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 Audit and Scrutiny committee on the 6 March 2019.
7. 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. ○ Refreshed Data Protection Training was rolled out to Members in February 2019. ○ Members training workshops provided during March 2019. • 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). Additional Information Governance related policies have since been implemented and a number of existing policies have been reviewed and refreshed. • Mandatory Information Governance training has been amended and rolled out to all staff in January 2019. • Individuals Rights content has been provided on the internet (public view). • Information for staff has been provided on the intranet (staff view). • 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"> • An Information Risk Register to be introduced to identify risks to key information assets. 	<p style="text-align: right;">30/09/19</p>

Key Changes due to Data Protection Act	Progress Made	Estimated Completion Timelines
	<ul style="list-style-type: none"> 2 Members induction sessions have been scheduled for November 2019. This will include dedicated guidance on how Members can comply with the changes due to the new Data Protection Act. 	30/11/19
<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. A new process has been set up to ensure new starters complete Information Governance training before joining the council. A Data Protection Compliance Programme has been produced (e.g. Data Protection Audits). Data breach awareness posters have been produced, displayed and circulated to staff. 	
<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 – From April 2019 to August 2019, the Council received 7 SARs.</p>	

Key Changes due to Data Protection Act	Progress Made	Estimated Completion Timelines
	All were processed within the statutory/legal timeframe.	
Requirement to keep records of data processing activities.	<p>Completed work:</p> <ul style="list-style-type: none"> • Information Asset Owners (IAOs) for all key areas have been identified. • A Data Processor Agreement is in place for the Revenues and Benefits Service. This will help ensure compliance with the Data Protection Act and mitigate any risks to Brentwood. <p>Work to be completed:</p> <ul style="list-style-type: none"> • Completion of Record of Processing Activities (ROPA) for key services. Approximately 95% of this work has been completed. In the main outstanding tasks are for the Data Protection Team to undertake independent audits to check for compliance. With this in mind, the completion date shown is an estimate at this stage and may change due to competing priorities. <p>Note – The ROPA will be an on-going review process to ensure it's up to date with information assets/systems.</p>	30/11/19
Appointment of a Data Protection Officer (DPO).	<p>Completed work:</p> <ul style="list-style-type: none"> • Paula Harvey (Corporate Governance Solicitor & Deputy Monitoring Officer) was appointed Data Protection Officer in July at Policy, Resources & Economic Development (PRED) Committee. 	
Data Protection Impact Assessments (DPIA) are required for high risk processing and/or when using new technologies.	<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. 	

Key Changes due to Data Protection Act	Progress Made	Estimated Completion Timelines
	<ul style="list-style-type: none"> 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 Act has been produced. 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. <p>Work to be completed</p> <ul style="list-style-type: none"> Review and update of mid-tier service area privacy notices. 	<p>30/09/19</p>

Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018

8. At the Regulatory and Governance Committee on the 6th March 2019, as part of the Chair's Update Report members received a report on the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018. This updated Members following a report to the Committee on the 28th November 2018 advising of the progress to date and the key dates of the new regulations.
9. Officers were working with the Essex On Line Partnership to meet the key date of September 2020 when all Public Sector websites must be accessible. Officers will continue this work once the move to the Town Hall has been completed and a further report will be made to PRED on progress on meeting the key date.

Implications

Financial Implications

Name & Title: Phoebe Barnes, Corporate Finance Manager

Tel & Email: 01277 312839 /phoebe.barnes@brentwood.gov.uk

10. Works completed to date on the Data Protection Act 2018 have been met within existing budgets.

11. There is sufficient financial resources to meet the requirement for works yet to be completed.

Legal Implications

Name & Title: Paula Harvey, Corporate Governance Solicitor & Deputy Monitoring Officer

Tel & Email: 01277 312860/paula.harvey@brentwood.gov.uk

12. The report outlines actions which the Council is taking to secure compliance with its statutory obligations in relation to data protection. 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.

Economic Implications

Name & Title: Phil Drane, Director of Strategic Planning

Tel & Email: 01277 312610/ philip.drane@brentwood.gov.uk

13. No implications.

Background Papers

None

Appendices to this report

None