



## RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

### CABINET

17<sup>TH</sup> JULY 2018

#### GENERAL DATA PROTECTION REGULATION – AN UPDATE

#### REPORT OF THE GROUP DIRECTOR, CORPORATE & FRONTLINE SERVICES IN DISCUSSIONS WITH THE RELEVANT PORTFOLIO HOLDER, CLLR M. NORRIS

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#### **1. PURPOSE OF THE REPORT**

- 1.1 This report provides Cabinet with an update on the work that has been undertaken in response to the General Data Protection Regulation (GDPR) and outlines further work planned for delivery by the GDPR project team.

#### **2. RECOMMENDATIONS**

It is recommended that the Cabinet:

- 2.1 Receives assurance that the fundamental requirements of the General Data Protection Regulation have been delivered in a robust and pragmatic way.
- 2.2 Endorse those areas identified as the next work-streams requiring action.
- 2.3 Consider if any additional work-streams are required in order to further strengthen the arrangements in place.

#### **3 REASONS FOR RECOMMENDATIONS**

- 3.1 It is essential that the Council complies with the requirements placed upon it by the General Data Protection Regulation. These new requirements apply across all private and public sector bodies and ensuring compliance is a key priority for the Council.

#### **4. BACKGROUND**

- 4.1 An overview of the General Data Protection Regulation was provided to Cabinet at its meeting held on 22<sup>nd</sup> March 2018 and as reported at that

time, compliance with the Regulation is mandatory. The GDPR came into effect from 25<sup>th</sup> May 2018.

- 4.2 In the United Kingdom, the Data Protection Act 1998 has been updated to take into account the changes resulting from the GDPR and this has culminated in a revised Data Protection Act 2018.
- 4.3 In order to ensure Council compliance, a dedicated GDPR project team has been established and is co-ordinating all activity across the Council in relation to the implementation project.

## **5. AN UPDATE ON PROJECT IMPLEMENTATION**

5.1 During the period leading up to the 25<sup>th</sup> May 2018, the work of the Project Team was focused on delivering 3 work-streams:

- Developing Data Protection Registers – in particular, recording ‘lawful bases’ for processing.
- Developing and publishing Privacy Notices
- Embedding the requirements of the GDPR into current contractual arrangements, and within procurement practices.

5.2 The following sections of this report provide a synopsis of these areas along with updates in respect of what has been delivered to date. In some instances, work is continuing and these have been clearly identified.

### **Data Protection Registers**

5.3 For each service area, in particular areas that handle and process personal and sensitive data, it was vital that the Council identified and recorded the lawful basis upon which data / information was processed. Without this, compliance with the GDPR would have been subject to challenge. The lawful basis is formally recorded within a document called a Data Protection Register<sup>1</sup>.

5.4 Ensuring a robust approach was in place to identify and record the lawful basis for each processing activity and completing associated Data Protection Registers across the Council was considered a fundamental deliverable for the Project. In order to deliver this work, a risk-based approach was adopted whereby those service areas that handle special categories of personal information (i.e. information that

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<sup>1</sup> Note: Data Protection Registers capture more than just the lawful basis, they also capture information in respect of why a service needs the information, what they do with the information and who they share information with (if indeed they share information).

is more sensitive such as health information) were prioritised and completed first.

Update

5.5 76 Registers have now been approved and 100 are currently being reviewed / in the process of being signed-off. On the basis of those registers that have been approved and those that are currently being reviewed, assurance can be provided that the lawful basis for processing has been identified for service areas.

5.6 The following table summarises the current status of Data Protection Registers:

<b>Group / Directorate</b>	<b>Approved</b>	<b>Being Reviewed / With HoS For Sign-Off</b>
<b>Education &amp; Lifelong Learning</b>	21	11
<b>Community &amp; Children's Services</b>	16	48
<b>Corporate &amp; Frontline Services</b>	26	17
<b>Chief Executives Directorate</b>	13	24

5.7 Work is taking place to ensure that all Data Protection Registers are approved as soon as is practicably possible.

**Developing & Publishing Privacy Notices**

5.8 As noted in paragraph 5.3 above, the Council is required to identify a lawful basis upon which it can receive and process information (personal and special category). Once it has done this, it is responsible for informing individuals what it intends to do with the information and how it will deliver its services and statutory responsibilities, using the information.

5.9 This explicit description of how it intends to use information should result in there being no surprises for individuals. The General Data Protection Regulation refers to these as 'Privacy Notices'.

Update – Corporate Privacy Notice & Supporting Guidance

5.10 The Corporate Privacy Notice was reviewed by the Information Management Board and subsequently approved by the Council's Senior Leadership Team.

5.11 Following approval, the Corporate Privacy Notice was published on the website and provides an overview of how the Council uses personal information and the ways in which we protect privacy. It is split into two keys areas:

[How we use your personal information - FAQ](#)

Provides answers to commonly asked questions about the Council's use of personal information.

[How we use your personal information](#)

Provides more detailed information about how the Council collects, uses and shares personal information to deliver specific services.

- 5.12 In support of the Corporate Privacy Notice, a separate ['Your Information, Your Rights'](#) section has also been made available via the Council's website, and provides guidance in respect of an individuals 'information rights' under the GDPR and how to exercise these rights.
- 5.13 In the event that an individual may be dissatisfied with how their personal information may have been handled by the Council, the website has been updated to provide individuals with clear information on [how to raise a concern](#).

Update – Service Privacy Notices

- 5.14 In support of the Corporate Privacy Notice, it is important that individuals are provided with detailed information about how personal information is used when receiving specific services. These are referred to as 'Service Privacy Notices'.
- 5.15 A total of 55 Service Privacy Notices have been published to date.
- 5.16 Each notice has been through a rigorous quality assurance process prior to publication.
- 5.17 The following table summarises the current status of Service Privacy Notices:

<b>Group / Directorate</b>	<b>Published</b>	<b>Being Reviewed / With HoS For Sign-Off</b>
<b>Education &amp; Lifelong Learning</b>	13	4
<b>Community &amp; Children's Services</b>	14	27
<b>Corporate &amp; Frontline Services</b>	20	4
<b>Chief Executives Directorate</b>	8	18

- 5.18 Work is taking place to complete the review process and publish all outstanding Service Privacy Notices as soon as is practicably possible.

**Embedding the requirements of the GDPR into current contracts and within procurement practices.**

- 5.19 Where the Council procures a contractor to deliver services on our behalf, and there is a requirement to exchange personal and/or sensitive information to undertake the duties, then the GDPR places specific requirements on the Council to ensure that the data is safeguarded.
- 5.20 In order to deliver compliance with the GDPR, two scenarios have been taken into consideration:
1. Current contracts need to be reviewed and where relevant, contractors need to receive a variation from the Council - linked to the requirements placed upon them by the GDPR.
  2. All new contracts where GDPR is applicable must comply.

Update

- 5.21 A Data Processing Agreement (Controller to Processor) has been developed and signed-off in consultation Legal & Procurement Colleagues.
- 5.22 All Contract Managers across the Council have been contacted and requested to complete a proforma aimed at establishing if GDPR would be relevant to their individual contracts. The responses have been reviewed by the Procurement Service and are now subject to review by the GDPR Project Team.
- 5.23 Once the list of contracts has been reviewed by the GDPR Project Team, the Procurement Service will issue contract variations attaching the Data Processing Agreement. Arrangements will be in place to track responses and issue reminders / escalate should this be necessary.
- 5.24 Reviewing the contracts list and issuing variations to existing contracts will continue to be a work-stream for the project, certainly for the foreseeable future.
- 5.25 A new standard contract has been developed and incorporates the Data Processing Agreement. All new contractual arrangements that are administered by the Procurement Service will be GDPR compliant.

**6. ACTIONS REQUIRED MOVING FORWARDS**

- 6.1 The update provided within Section 5 of this report provides the outcomes of the work delivered to date. Whilst the 25<sup>th</sup> May 2018 was clearly the formal implementation date for GDPR, it is widely acknowledged that work in this area, certainly at this early stage, is ongoing and developing as for example new guidance is issued, but the May date did enable the Council to focus on those work-streams

that required particular resource and attention. As a Council we have been in regular contact with the Information Commissioners Office (ICO) and they have been supportive of our approach in that it has been pragmatic and risk-based.

- 6.2 As indicated, ongoing work is required and over the next 3 months, the resources available within the Project Team will be focused on the following work-streams:

**Complete delivery of the existing work-streams**

Finalise all Data Protection Registers currently being reviewed.

Finalise and publish all service privacy notices that are currently being reviewed.

Continue to put in place appropriate arrangements in respect of current contracts.

**New / Emerging Work-streams**

Embed the requirements of the GDPR into all processes across the Council.

For example – all application forms need to be reviewed and updated so they are compliant with the GDPR.

Review the current arrangements in respect of investigating and escalating potential information breaches.

Review the arrangements in place in relation to former Section 29 (crime prevention/ detection) and Section 35 (legal proceedings) requests.

Review the arrangements in respect of the Council's Information Management Team providing support to all schools.

**7. INFORMATION MANAGEMENT BOARD – OVERSIGHT OF PROJECT DELIVERY**

- 7.1 In order to deliver the project, it is essential that appropriate monitoring and reporting arrangements are in place. In addition to overseeing the normal business relating to the Council's Information Management arrangements, the Board has also been tasked with monitoring the implementation of the project delivery plan.

- 7.2 The Information Management Board acts as the first point of contact when reporting updates and escalating any issues. Appropriate mechanisms are in place to ensure that the Council's Senior

Leadership Team and Cabinet are kept informed of progress at key stages of this project.

## **8. EQUALITY AND DIVERSITY IMPLICATIONS**

- 8.1 There are no equality and diversity implications as a result of the recommendations set out in the report.

## **9. CONSULTATION**

No consultation is required on this matter.

## **10. FINANCIAL IMPLICATION(S)**

None.

## **11. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED**

- 11.1 Implementing the requirements of the General Data Protection Regulation is a legal obligation placed upon the Council. Failure to comply with the GDPR could result in fines being instigated by the Information Commissioners Office.

## **12. LINKS TO THE CORPORATE AND NATIONAL PRIORITIES AND THE WELL-BEING OF FUTURE GENERATIONS ACT.**

### **THE COUNCIL'S LOCAL PRIORITIES**

- 12.1 There is no direct link to meeting the Council's Priorities. However, the implications of the drive to Increase Digitisation and Agile Working across the Council will increase the focus on protecting personal data. The GDPR underpin this requirement. As a result of the Council applying the requirements of the GDPR, residents of Rhondda Cynon Taf can be assured that any personal data held by the Council will be used only for the purpose it is intended.

### **WELL-BEING OF FUTURE GENERATIONS ACT**

- 12.2 In applying the Sustainable Development Principles, particularly in respect of 'Involvement' and 'Collaboration', the Council will ensure it complies with the GDPR in respect of the personal data it holds.

## **13. CONCLUSION**

- 13.1 The General Data Protection Regulation came into effect on the 25<sup>th</sup> May 2018. This Regulation places clear responsibilities on the Council to demonstrate accountability and transparency when handling and processing personal and sensitive information that it holds in respect of individuals. In the UK, the Regulation is supported by the newly adopted Data Protection Act 2018.

13.2 The GDPR Project Team has helped to deliver the three work-streams identified as being of the highest priority; and has been supported by relevant Officers from across the Council.

13.3 Additional work-streams have now been established and delivery of these will be monitored by the Information Management Board. A further update on delivery of the project will be reported to Cabinet during quarter 3 2018/19.

**Other Information:-**

***Relevant Scrutiny Committee*** - Finance & Performance Scrutiny Committee

***Contact Officer*** – Chris Lee – Group Director, Corporate & Frontline Services



**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**CABINET**

**17<sup>th</sup> JULY 2018**

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**Background Papers**

Cabinet – [22<sup>nd</sup> March, 2018](#).

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