
Report To:	Policy and Resources Committee	Date:	11 August 2020
Report By:	Head of Legal & Property Services	Report No:	LP/070/20
Contact Officer:	Andrew Greer	Contact No:	01475 712498
Subject:	General Data Protection Regulation Update		

1.0 PURPOSE

- 1.1 The purpose of this report is to provide the Policy and Resources Committee with its annual update on the implementation of the General Data Protection Regulation (GDPR) within the Council.

2.0 SUMMARY

- 2.1 GDPR came into effect on 25th May 2018. This is the second annual update report to the Committee following upon its decision in May 2018 to review regularly progress on GDPR Implementation with the Council.
- 2.2 Since the GDPR implementation date of 25th May 2018, the Information Governance Team (IGT) has continued to lead the Council's GDPR preparations, assisted by the Information Governance Steering Group (IGSG) (previously the GDPR Implementation Group which was merged with the IGSG due to progress made). The majority of actions within the GDPR Post Implementation Plan, as reported to the Committee on 21 May 2019, are now complete. A summary of the GDPR Post Implementation Action Plan is provided in the **Appendix**.
- 2.3 The GDPR Post implementation Plan has progressed well. The main completed actions of note since the previous update are as follows:-
- A new IT system has been set up to allow the Information Asset Register to be easily maintained by Services;
 - A Data Sharing Agreement Register has been created and is available on ICON;
 - Committee report templates have been updated to include reference to Data Protection Impact Assessments;
 - The Data Protection Policy has been updated;
 - Subject Access Request Guidance has been created; and
 - The Policy for the Retention and Disposal of Records Paper and Electronic has been updated.
- 2.4 The IGSG will continue to progress GDPR matters, in addition to all Information Governance matters. As the majority of the actions in the GDPR Post Implementation Plan are now complete, it is proposed that further updates to the Committee focus on reviewing, monitoring and updating on all Data Protection matters.

3.0 RECOMMENDATIONS

- 3.1 It is recommended that the Committee:
- (i) notes the contents of this report; and
 - (ii) notes that the annual GDPR update will be reported to future Committees as part of an annual Data Protection update.

Gerard Malone
Head of Legal & Property Services

4.0 BACKGROUND

- 4.1 The GDPR sets out requirements on how organisations need to handle personal data. It has enhanced the rights of individuals whose data is held (known as data subjects) and gives individuals more control over what happens to their data.
- 4.2 It also allows for financial penalties to be imposed on any organisation that breaches those rights or does not comply with the 'accountability principle'. This means that data controllers and data processors i.e. organisations and certain individuals – including Councils and Councillors, need to have technical and organisational measures in place to protect the data they hold from loss and unauthorised access, and to ensure that the rights of data subjects are protected.

5.0 GDPR IMPLEMENTATION PLAN PROGRESS

- 5.1 The Information Governance Team (IGT) continues to lead the Council's implementation of GDPR, assisted by the Information Governance Steering Group (IGSG) (previously the GDPR Implementation Group). The decision was taken in July 2019 to merge the two groups due to the significant progress made.
- 5.2 The IGSG meets once every three months. A summary of the GDPR Post Implementation Plan has been provided in the **Appendix**. This has now been incorporated in the IGSG Action Plan which covers wider Information Governance matters.
- 5.3 Training
- 5.4 The GDPR Implementation Training programme is complete.
- 5.5 Training will continue to be monitored by the IGT and the IGSG and further training will be provided on a needs basis. Training has been delivered by the IGT and therefore it is important that the IGT continue to attend courses and the GDPR Budget will assist with this. Data Protection Officer Training has been identified for 14th October 2020 which will be delivered online by the Law Society of Scotland.
- 5.6 GDPR training and awareness has been incorporated into a GDPR specific e-learning module which is mandatory for all employees who have access to a computer and process personal data. The completion rates of the GDPR e-learning module stands at 2,857 (95%) out of approximately 3,000 relevant employees.
- 5.7 Information Asset Register
- 5.8 The Information Asset Register (IAR) is a database which holds details of all the information assets held within the Council, including personal data. The GDPR compliant IAR is complete.
- 5.9 In addition, with the support of ICT, an IT system has been created to allow Services to easily maintain their irrespective IARs. A training session will take place on 26th August 2020 to roll this out and enable all Services to take over the maintenance for their individual Service IARs.
- 5.10 Data Sharing Agreements
- 5.11 The Council requires to have appropriate Data Sharing Agreements in place with relevant parties. In order to assist with this task, the Council's Information Sharing Protocol has been updated and amended to reflect the provisions of GDPR.
- 5.12 A Data Sharing Register has been developed and is available on ICON. This is to allow Services to view which DSAs they have in place to allow information to be shared more effectively and efficiently.
- 5.13 Privacy Notices
- 5.14 Privacy Notices inform individuals how the Council will be using their data and are a key requirement of the transparency principle of GDPR. Privacy Notice Guidance and a Template have been issued

to the GDPR Champions. To date 51 Service Privacy Notices have been completed and are available on the Council's website, which is an increase of 5 since the previous update. Services review their Privacy Notices when implementing new projects and/or at least annually via the IGSG.

5.15 Data Breaches

5.16 A data breach is the result of an event or series of events where personally identifiable information is exposed to unauthorised or inappropriate processing that results in its security being compromised. The extent of damage or potential damage caused will be determined by the volume, sensitivity and exposure of the personally identifiable information.

5.17 Table A below shows the number of data breaches between the two reporting periods to this Committee.

5.18 Table A

Reporting Period	May 2018 – April 2019	May 2019 – April 2020
Number of Data Breaches	66	57
Reported to the ICO	6	0

5.19 It is noted from Table A, that there has been a reduction in both: the number of data breaches; and those which have been reported to the ICO. This is a positive reflection on the Council's implementation plan and creating awareness of the importance of protecting individual's data.

5.20 Table B highlights the number of data breaches broken down by Directorate over the two reporting periods.

5.21 Table B

	May 2018 – April 2019	May 2019 – April 2020
Education, Communities, & Organisational Development	25	23
Education	22	16
Culture, Communities and Educational Resources	1	3
Organisational Development, Policy and Communications	1	4
Environment, Regeneration & Resources	15	15
Environmental & Public Protection Services	4	2
Finance	8	7
Legal & Property Services	1	5
Regeneration & Planning Services	2	1
Roads	0	0
Health & Social Care Partnership	26	19
HSCP - Children & Criminal Justice	17	8
HSCP - Health & Community Care	2	3
HSCP - Mental Health, Addictions and Homelessness	1	5
HSCP – Strategy and Support Services	6	3
Grand Total	66	57

5.22 It is noted that Education and HSCP Children & Criminal Justice have the highest number of data breaches. This is due, in part, to the fact that these Services manage large volumes of personal data and therefore it would be expected that they would have a higher number of data breaches compared to other Services. In addition, it should be noted that the number is reducing.

5.23 Table C identifies the nature of data breaches over the two reporting periods.

5.24 Table C

Nature of Data Breaches	May 2018 – April 2019	May 2019 – April 2020
Disclosure in Error	32	29
Employee Error	22	18
Technical Fault	4	0
Loss of Data	4	6
Theft	1	1
Malicious Data Breach	1	2
Processor Error	1	1
Breach of Confidentiality	1	0
Total	66	57

5.25 It is noted that the main data breaches are caused by Disclosure in Error (sending an email to the incorrect recipient) or Employee Error (saving a file to the incorrect Drive). These are basic mistakes, and whilst the aim will always be to try and reduce these types of data breaches, it is accepted that there will always be an element of human error. In addition, these data breaches tend to be contained within the Council, for example, sending an email to the incorrect recipient but within the Council and therefore will be mitigated.

5.26 Data Protection Impact Assessment s (DPIAs)

5.27 DPIAs are mandatory where the processing of personal data may result in a high risk to the rights and freedoms of individuals, for example, the introduction of a new CCTV system; open floor working environment; a new IT system for HSCP.

5.28 The DPIA Guidance and Template was approved by the Policy and Resources Committee on 26th March 2019 and is now available on ICON for all employees. To date 27 DPIAs have been completed.

5.29 Policies

5.30 Committee report templates have been updated to include reference to DPIAs. This is to ensure that officers consider data protection at all stages of project implementation.

5.31 The Data Protection Policy has been updated to reflect the new requirements of GDPR and the Data Protection Act 2018. This was approved by the Policy and Resources Committee on 19th November 2019.

5.32 In addition, Subject Access Request Guidance (a request by an individual for their own personal data which the organisation holds) has been created to assist Services progress these requests. This is available on ICON.

5.33 The Policy for the Retention and Disposal of Records Paper and Electronic has been updated and will be presented to the Committee on 15th September 2020.

5.34 Elected Members

5.35 GDPR implementation also has implications for Elected Members as they are individual data controllers in their own right in relation to information processed as part of their constituency work. The IGT has provided training to Elected Members and issued Guidance. The IGT will continue to provide all necessary support to Elected Members on GDPR and data protection matters.

5.36 Summary

5.37 The Council's GDPR Post Implementation Plan continues to progress well and has been incorporated into the IGSG Action Plan due to the progress made. All data protection policies and procedures continue to be reviewed and updated as necessary. All Services continue to give the appropriate focus and attention to how they are managing the implications of the GDPR and data

protection in their day to day roles. It is important that this continues to ensure that the Council continues to meet its obligations under the GDPR. The IGT will continue to support Services in this rapidly developing area of law.

6.0 IMPLICATIONS

6.1 Finance

Financial Implications:

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement From	Other Comments
Information Governance	Training and Systems	20/21	60		

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

6.2 Legal

The Council requires to take the steps as identified in this report to comply with the General Data Protection Regulation.

6.3 Human Resources

HR will also be providing assistance by facilitating the launch of the Data Breach and the Data Protection Impact Assessment e-learning modules.

6.4 Equalities

Equalities

- (a) Has an Equality Impact Assessment been carried out?

<input type="checkbox"/>	YES (see attached appendix)
<input checked="" type="checkbox"/>	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required

- (b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

<input type="checkbox"/>	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
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X	NO
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(c) Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO

6.5 **Repopulation**

Not applicable.

7.0 **CONSULTATIONS**

7.1 Not applicable.

8.0 **BACKGROUND PAPERS**

- 8.1 ICO's guidance "Preparing for the Data Protection Regulation – 12 steps to take now" – <https://ico.org.uk/media/1624219/preparing-for-the-gdpr-12-steps.pdf>
- 8.2 Policy and Resources Committee – 22 May 2018 - <https://www.inverclyde.gov.uk/meetings/meeting/2061>
- 8.3 Policy and Resources Committee – 21st May 2019 - <https://www.inverclyde.gov.uk/meetings/meeting/2170>

Summary GDPR Post Implementation Plan

Code	Task	Led By	Due By	Status
Accountability and Governance				
1.1	GDPR should be incorporated on each Service's risk register .	Information Governance Team/ Audit	September 2018	Green - Complete
Training Needs				
2.1	Managers GDPR Training	IGT	22 nd May 2018	Green - Complete
2.2	Customer Services GDPR Training	IGT	23 rd May 2018	Green - Complete
2.3	Elected Members re-fresher training scheduled	Information Governance Team	22 nd August 2018	Green - Complete
2.4	Data Breach Training for HSCP Team Leader and above staff	Information Governance Team	28 th August 2018	Green - Complete
2.5	Data Protection Impact Assessment Training	IGT	28 th September 2018	Green - Complete
2.6	Data Breach Training for HSCP Admin staff	IGT	28 th and 29 th November 2018	Green - Complete
2.7	Data Protection Impact Assessment Training	Information Governance Team	16 th January 2019	Green - Complete
2.8	Training for Managers unable to attend previous dates.	Information Governance Team	31 st January 2019	Green - Complete
2.9	Data Breach Training for Education Staff	Information Governance Team	June 2019	No longer required.
2.10	Data Breach e-learning module to be developed	Information Governance Team/HR	June 2019 (module created and in process of being published on Brightwave)	Green – Complete
			Date for publication – October 2020	Green – on Track
2.11	Data Protection Impact Assessment e-learning module to be developed.	Information Governance Team/HR	June 2019 (module created and in process	Green – Complete

			of being published on Brightwave)	
			Date for publication – October 2020	Green – On Track
Information that the Council Holds				
3.1	Information Asset Register (IAR) – Guidance with GDPR Champions and in final stages of completion.	Information Governance Team/ GDPR Champions	May 2019	Green – Complete
3.2	Set up system which will allow service to maintain the IAR .	Information Governance/ICT	July 2019	Green – Complete
Third Party Management				
4.1	All Services to identify any data sharing agreements/data processor agreements and send to Information Governance Team	Information Governance Team/ GDPR Champions	Ongoing	Green – Complete
4.2	Create DSA repository and share with GDPR Champions	IGT	Ongoing	Green – Complete
4.3	Ensure contracts are GDPR compliant	Procurement/ GDPR Champions/ICT/ Legal/ Information Governance	Ongoing	Green – Complete
Communicating Privacy Information				
5.1	Review of Privacy page website to make it more user friendly.	Information Governance	End of August 2018	Green – Complete
5.2	Creating awareness of Privacy Notice – letters, emails, telephone, forms, etc.	Information Governance/ GDPR Champions	Ongoing action	Green – Complete
Data Protection Impact Assessment (DPIA)				
6.1	DPIA Guidance created and approved	Information Governance	March 2019	Green – Complete

Official

6.2	Committee report templates to be revised and updated to include reference to DPIA	Information Governance	May 2019	Green – Complete
Review Policies and Procedures				
7.1	Data Protection Policy currently under review	Legal & Property Services	June 2019	Green – Complete
7.2	Update Information Sharing Protocol	Legal & Property Services	March 2019	Green – Complete
7.3	Review Subject Access Request Policy	Legal & Property Services	July 2019	Green – Complete
7.4	Review Retention and Disposal of Electronic and Paper Records	Information Governance	December 2019	Green – Review Complete
			Present to P&R Committee - 15 th September 2020	Green – On Track