

East Herts Council Report

Executive

Date of Meeting: Tuesday 22 November 2022

Report by: Councillor George Cutting – Executive Member for Corporate Services

Report title: Data Protection Policy

Ward(s) affected: (All Wards);

Summary

This report presents the newly drafted East Herts District Council Data Protection Policy (Appendix A) which sets out the obligations of the council regarding the collection, processing, transfer, storage and disposal of personal data as well as the rights of data subjects in respect of their personal data.

In a report taken to Overview and Scrutiny Committee on 8 November 2022, the committee supported the proposal to recommend this policy to Executive for adoption.

RECOMMENDATIONS FOR Executive:

- (A) Consider the comments from Overview and Scrutiny Committee, as shown at Appendix B, and endorse the recommended actions shown.**

- (B) That the Data Protection Policy is adopted following any amendments.**

(C) That the Information Governance and Data Protection Manager be authorised to make any minor amendments that may be required, in consultation with the Head of Legal and Democratic Services.

1.0 Proposal(s)

1.1. As above

2.0 Background

2.1 Following the adoption of key policies and procedural documents recommended in the council's information management audit, it was further identified that the council required the adoption of a data protection policy.

2.2 This policy will ensure that the council further enhances its compliance with data protection law by setting out how data protection practices are governed.

2.3 The report was considered by Overview and Scrutiny Committee at its meeting on 8 November 2022. There were comments and recommended actions are shown at Appendix B.

3.0 Reason(s)

3.1 The adoption of this policy will further enhance the council's compliance with the UK GDPR and the accountability principle within it, particularly article 24(1) which requires the council to have in place technical and organisational measures to ensure, and demonstrate, compliance with the UK GDPR wherever personal data is processed.

3.2 The Policy sets out how the council ensures:

- 3.2.1 compliance with the data protection principles and a privacy by design approach;
- 3.2.2 that high importance is placed on the correct, lawful and fair handling of personal data and respects the privacy rights of all individuals with whom it deals, particularly when working from home;
- 3.2.3 that an appropriate lawful basis is identified prior to the processing of data;
- 3.2.4 that appropriate privacy notices or privacy-related documentation are in place prior to the processing of personal data;
- 3.2.5 that procedures are in place to respond to data subject right requests;
- 3.2.6 that appropriate security measures, whether technical or organisational, are in place to sufficiently protect personal data;
- 3.2.7 that procedures are in place to ensure that sharing of personal data remains compliant;
- 3.2.8 that procedures are in place to ensure the lawful transfer or processing of personal data to or in countries outside of the UK where this is required;
- 3.2.9 that data protection impact assessments are carried out when required;
- 3.2.10 that roles and responsibilities are in place to support the above.

3.3 This policy will be regularly reviewed and updated as required to ensure that the council remains compliant with the ever changing UK GDPR regime, particularly in response to changes to data protection law proposed by the Government under its new 'Data: A New Direction' strategy.

4.0 Options

4.1 Not to adopt this policy and maintain existing data protection procedures and guidance without an adopted policy document. NOT RECOMMENDED as this would work against the council's aim to be able to demonstrate accountability as required by the UK GDPR.

4.2 To consider and adopt this policy. RECOMMENDED as a means of ensuring that the council has an up-to-date policy document in place to demonstrate its compliance with data protection law.

5.0 Risks

5.1 Failure to have in place means to demonstrate compliance with the UK GDPR principles may lead to enforcement action taken against the council by the Information Commissioner's Office.

5.2 There may be additional reputational implications if the Information Commissioner's Office were to investigate the council for non-compliance with UK GDPR principles regardless of the final decision.

6.0 Implications/Consultations

Community Safety

No

Data Protection

Yes – The adoption of this policy will ensure that the council further enhances compliance with the UK GDPR by being able to demonstrate compliance as required by the accountability principle.

Equalities

No

Environmental Sustainability

No

Financial

No

Health and Safety

No

Human Resources

No

Human Rights

Yes – By having a Data Protection Policy in place, the council is able to demonstrate how it will respect the rights of data subjects and the overarching right to privacy.

Legal

Yes – the council is under an obligation to ensure it complies with UK data protection law, and the adoption of this policy strengthens the council's compliance with the relevant data protection legislation.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

7.1 **Appendix A** – DRAFT – East Herts Council - Data Protection Policy

7.2 **Appendix B** - Comments from the Overview and Scrutiny Committee

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