

East Herts Council Report

Audit and Governance Committee

Date of Meeting: 17 November 2020

Report by: James Ellis, Head of Legal and Democratic Services and Monitoring Officer

Report title: GDPR and Data Retention Update

Ward(s) affected: All

Summary

Responding to the request made at the meeting of the Audit and Governance Committee on 28th July 2020, for an update on Information Management and GDPR compliance.

RECOMMENDATION FOR AUDIT AND GOVERNANCE COMMITTEE:

(a) That the Committee notes the content of the report and provides any observations to the Head of Legal and Democratic Services

1.0 Proposal(s)

1.1 As above.

2.0 Background

2.1 At its meeting on 28 July 2020, the Committee requested that an update on Information Management and GDPR compliance be provided to a future meeting of the Committee.

- 2.2 Subsequent correspondence from members articulated an interest in the update addressing whether there are any issues with the council's approach such as there being;
- Lack of adequate information in the Asset Register;
 - Information Management policies and procedures out of date;
 - Lack of a defined and enforced retention schedule; and
 - Lack of defined disposal and destruction procedures.
- 2.3 Historically, and upon the coming into force of the GDPR in 2018, East Herts Council engaged the services of a specialist consultant to produce legally compliant documents, including those mentioned in 2.2 above.
- 2.4 For whatever reason, it would appear that in the intervening two year period, steps to ensure that the documentation remained up to date were not undertaken, which has led to some documents being incomplete and in need of updating.
- 2.5 East Herts Council had initially explored the possibility of entering into a shared Information Governance service with Stevenage Borough Council; however upon the appointment of the new Head of Legal and Democratic Services, it was ultimately decided that the preferred approach would be to have a dedicated in-house position created for East Herts.
- 2.6 In pursuance of this decision, a new Information Governance & Data Protection Manager post has been created, advertised and, at the time of writing, will be progressing to interview stage shortly.
- 2.7 This post will provide East Herts Council with ongoing resilience to ensure that documents are reviewed and updated now and in the long term.

2.8 Some additional queries contained in the e-mail mentioned at 2.2 above were;

- Have there been any data breaches at EHDC since May 2018?
 - There have been a total of 36 data breaches reported to East Herts Council's Information Officer since May 2018, with 2 of those deemed serious enough to be reported to the Information Commissioners Office ("ICO"). Taken in context that the potential for data breaches arise with every communication, every council tax or benefit account, every planning application, every e-mail and letter sent externally and every web page published by the council, this represents a very low number of breaches over the two and a half year period in question.

- How many data subject access requests ('DSARs') have been received by EHDC since May 2018?
 - There have been 26 DSAR's since May 2018

- For any DSAR's [in that period], did EHDC always respond within the statutory period?
 - 24 of the 26 were responded to within the statutory period, representing a circa 92% success rate.

- Has any data mapping exercise been undertaken by EHDC since May 2018?
 - There does not appear to have been any data mapping exercise since May 2018

- Has EHDC satisfied itself regarding the compliance with GDPR of any contractor/third party with which it shares personal data?
 - Where data is shared with a contractor/third party, individual Data Sharing Agreements are entered into to ensure compliance with GDPR. This was most recently demonstrated in the work undertaken by the council and

its partner agencies in contacting those individuals who were required to shield due to the COVID-19 pandemic.

3.0 Reason(s)

3.1 The Audit & Governance Committee has within its terms of reference; provide an effective mechanism to monitor the control environment within the council, ensuring the highest standards of probity and public accountability by challenging and following up internal audit recommendations.

4.0 Options

4.1 The Committee requested an update and so there are no alternative options to consider.

5.0 Risks

5.1 Having policies that are not up to date poses a risk that the council could fall foul of data protection law. The incoming Information Governance & Data Protection Manager will be tasked with addressing this situation in order to ensure that all of the council's documents are up to date and fit for purpose.

5.2 Risk of data breaches is reduced by regular data protection awareness training delivered via the council's online training facility. This is reflected in the low number of data breaches which have been reported since May 2018 as outlined at 2.8 above.

6.0 Implications/Consultations

6.1 None

Community Safety

No

Data Protection

Yes – Limited assurance was provided on the Annual Governance Statement as a result of the audit on information governance. The creation of, and imminent appointment to, the Information Governance & Data Protection Manager role is a first step in addressing this.

Equalities

No

Environmental Sustainability

No

Financial

No

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

None, other than as identified above.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

7.1 None.

Contact Member

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