

East Herts Council Report

Audit and Governance Committee

Date of meeting: 27 May 2021

Report by: Tyron Suddes, Information Governance and Data Protection Manager

Report title: Data Protection Update

Ward(s) affected: All

Summary

To provide an update on data protection compliance, including data breaches and subject access requests.

RECOMMENDATION FOR AUDIT AND GOVERNANCE COMMITTEE:

- a) That the Committee notes the content of the report and provides any observations to the Information Governance and Data Protection Manager**

1.0 Proposal(s)

1.1 As above

2.0 Background

2.1 Following an update on Information Governance and GDPR compliance given by the Head of Legal and Democratic Services to this Committee on 17th November 2020, the Committee requested regular updates on the council's compliance with UK

GDPR and the Data Protection Act 2018 (“data protection legislation”).

2.2 Since starting the role in January 2021, the Information Governance and Data Protection Manager has assessed the council’s compliance with data protection legislation and has found that, although the council is largely compliant, there are areas that require review.

2.3 These areas, including policies and procedures, data identification, data subject rights and data breach have been prioritised and actions are currently being undertaken to ensure compliance. As an overview, the following actions are underway:

2.3.1 An Access to Information Policy has been drafted and approved by Leadership Team and Overview and Scrutiny Committee for final approval by Executive;

2.3.2 The council’s Data Retention Policy and Data Breach Policy and their related procedures, including data retention schedule and data breach procedure have been reviewed and are to be taken to Leadership Team, Overview and Scrutiny Committee and Executive for approval;

2.3.3 A data mapping exercise is being carried out with all services to update and identify data assets and processes. The council’s Record of Processing Activity (“ROPA”) and Information Asset Register are also being updated alongside the wider data mapping exercise;

2.3.4 As a summary, the data mapping exercise is being used to identify:

2.3.4.1 service specific privacy notices so that these can be reviewed and updated where required

- 2.3.4.2 where data is shared and/or processed so that the relevant agreements can be reviewed and updated and so that updated assurance from third parties regarding their UK GDPR compliance can be sought
- 2.3.4.3 where and how data is stored so that current organisational and security measures can be reviewed
- 2.4 As part of a regular data protection update, the committee requested an update on data breaches and subject access requests.
- 2.5 There have been a total of 20 breaches reported to the council's Information Officer from the start of November 2020 to the end of April 2021, of which only one was deemed serious enough to be reported to the Information Commissioner's Office and the affected data subject. Although it was unlikely the breach would be realised, the severity of the risk was high due to the nature of the information. The breach occurred due to human error whereby a staff member sent customers details to an external contact in error by selecting the incorrect contact from the autocomplete function in Outlook. The breach was contained and reported within the statutory 72 hour timeframe and the recipient of the information was asked to permanently delete it which was actioned and confirmed.
- 2.6 Of the other minor breaches, 18 were due to human error and 1 occurred due to theft of a fly tipping camera.
- 2.7 As an overview, breaches due to human error occurred because:
 - 2.7.1 Emails or letters were sent to an incorrect recipient;
 - 2.7.2 Incorrect details were included in emails or letters sent to an intended recipient;

- 2.7.3 Personal data was not sufficiently redacted before being published or sent.
- 2.8 Where breaches were due to human error, the following action(s) were taken:
- 2.8.1 Recipients who had received personal data incorrectly via email or letter were asked to destroy or delete the data;
- 2.8.2 Where personal data had been published this was immediately removed;
- 2.8.3 Staff responsible for the breach, as well as their line manager, were reminded of the serious implications of a data breach, to take more care in future and were advised to re-take the GDPR e-learning course.
- 2.9 The breach attributable to the theft of a fly tipping camera was deemed low risk as the camera was positioned to gather only license plate details which would be difficult to relate to an identifiable person and the storage device in the camera was encrypted.
- 2.10 Keeping in mind that the council processes an extremely large amount of data every day through communications, emails, online accounts and applications, the amount of reported breaches that occurred over this six month period is relatively low.
- 2.11 It is also good to note that, following its review, all staff will be reminded of the updated requirements in the council's Data Breach Policy and related procedural documents to ensure that, in addition to the council's GDPR e-learning course, staff have sufficient knowledge of the implications of data breaches and how to recognise and report them.

2.12 There have been a total of four data subject access requests received from the start of November 2020 to the end of April 2021. Two of these were not upheld as the data subjects could not provide sufficient identification or did not respond to a request for identification. The additional two requests were upheld and the personal data of the requestors was provided within the one month time limit.

3.0 Reason(s)

3.1 The Audit and Governance Committee has within its terms of reference; to 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 and procedures that are not up to date poses a risk that the council could fall foul of data protection law. These are currently being updated to ensure ongoing compliance.

5.2 Data breaches can pose a financial and reputational risk to the council if they are not reported and dealt with correctly, however, the council, through online training and updated policies and procedures has limited the amount of medium to high risk breaches. Additionally, through regular reporting of lower risk breaches, the council is able to identify trends and possible actions to prevent these reoccurring.

5.3 Similarly, subject access requests, if not responded to correctly and within the statutory one month time frame, can pose financial and reputational risks to the council. This report provides reassurance that the council continues to respond to these requests in line with legislation.

6.0 Implications/Consultations

6.1 None

Community Safety

No

Data Protection

Yes – regular updates on data protection aim to provide assurance that although limited assurance was provided during the 2019/20 audit of information governance, the key areas highlighted are being actioned to ensure the council remains compliant with data protection legislation. Equally, updating on data breaches and subject access requests provides assurance that the council remains compliant in these areas.

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

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