

Report for: **Non Key Cabinet Member Signing**

Title: Updated Data Protection and Records Retention Policies

Report authorised by : Richard Grice – Interim Director for Transformation and Resources

Lead Officer: Anita Hunt, 1844, anita.hunt@haringey.gov.uk

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non key decision

1. Describe the issue under consideration

1.1 New Data Protection legislation will come into force on 25 May 2018. This significantly increases the maximum level of fine that can be applied in respect of breaches of the legislation (from £500,000 up to £17 million). The data protection and records retention policies have been reviewed and updated to refer to and ensure compliance with the new legislative requirements. The Cabinet Member for Corporate Resources is asked to approve these policies.

1.2 The safety and integrity of personal data is a matter of great importance to the public. The Data Protection policy sets out our statement of intent in ensuring we work to the high standards our residents and customers would expect.

1.3 With regards to the Records Retention Policy, the policy states the Council will adopt the Local Government Association (LGA) guidance to inform its own retention schedule. This ensures Haringey is closely aligned to recognised good practice within local government.

2 Cabinet Member Introduction
N/A

3 Recommendations

3.1.1 That the Cabinet Member approves the Data Protection policy attached at appendix 1 and further approves Records Retention policies attached at appendix 2.

4 Reasons for decision

4.1 To ensure that these key policies are up-to-date, reflect the new legislation and are in force when the legislation comes into force on 25 May 2018.

5 Alternative options considered

The Council is legally required to update these policies in line with legislation.

6 **Background information**

6.1 The change in legislation requires us to update the policies. In addition, a recent internal audit report into Information Governance – Information Retention recommended:

An Information Retention policy should be developed that incorporates new legislation and current practices. The document should be formally approved and disseminated to staff.

6.2 It is essential that these key policies are in place (along with the supporting procedural documents for the Data Protection Policy) when the new legislation comes in to force.

7 **Contribution to strategic outcomes**

7.1 These policies support the Council's strategic outcomes by providing a basis for efficient and compliant information management across all council functions.

8 **Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

Finance

8.1 Owing to the requirement to address the statutory changes where the financial risk of non-compliance has risen from a £500k penalty to £17m, compliance to the new statute is paramount.

8.2 The Records Retention policy will formally adopt the practices already in place and will create no additional financial burden.

8.3 It should be noted that adherence to the data protection policy may mean a need to increase the resources devoted to Information Governance to support and demonstrate our compliance with the new legislation. This report is only considering a formal adopting of the policy and if additional resources are required, that will form the basis of a report at a later date.

Procurement comments

8.4 The Head of Procurement notes the contents of this report and concurs with the recommendation

Legal comments

8.5 The Assistant Director Corporate Governance has been consulted in the preparation of this report and makes the following comments. He sees no legal reason why the recommended decision should not be made.

8.6 The General Data Protection Regulation (the GDPR), which makes significant changes to data protection law throughout the EU, takes effect on 25 May 2018. In particular, for the Council, it introduces a new basis for data processing (“public task”) but restricts reliance on the existing bases of consent and legitimate interest. It also requires the basis/bases upon which data is processed to be identified from the beginning, rather than after the event; and that this be communicated upfront to the individual whose data is being processed.

8.7 The Data Protection Bill (the Bill), which reaches Committee stage in the House of Commons on 13 March 2018, is expected to become law and be brought into force to coincide with the GDPR. When it becomes law, it will repeal the Data Protection Act 1998, which is the current basis of data protection law.

8.8 As relevant to the Council, the Bill:

- addresses areas within the GDPR that are left to the discretion of the UK
- extends data processing law into types of processing not covered by the GDPR
- provides a single regime for data processing for law enforcement purposes (in so doing transposing the Law Enforcement Directive into UK law)
- introduces new powers and offences in relation to data protection

8.9 These legislative changes require updating of the Council’s policies to ensure compliance.

Equality Comments

8.10 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not

8.11 The report details amendments to the Council's existing Data Protection and Retention policies, as a result of national legislative changes. These changes are not expected to impact negatively on protected groups.

8.12 Overall, the changes will require the Council to be more transparent in its use of personal data. In addition, certain categories of information such as race and ethnicity, religious beliefs and sexual orientation will receive further protection to ensure that the security of personal information is maximised.

8.13 The Council will continue to consider potential impacts and comply with existing equality obligations as part of the application of the new Data Protection and Retention policies.

9 Use of Appendices

Appendix 1: Data Protection Policy

Appendix 2: Records Retention Policy

10 Local Government (Access to Information) Act 1985
None