



CABINET

19TH APRIL 2018

AGENDA ITEM (10)

GENERAL DATA PROTECTION REGULATION - APPOINTMENT/DESIGNATION OF DATA PROTECTION OFFICER

Accountable Member	Councillor C Hancock Cabinet Member for Enterprise and Partnerships
Accountable Officer	Phil Martin Group Manager, Business Support 01993 861201 phil.martin@publicagroup.uk

Purpose of Report	The General Data Protection Regulation (GDPR) requires all public authorities to designate a Data Protection Officer (DPO).
Recommendation(s)	<p>(a) That the designation of a Data Protection Officer, with a sharing arrangement in place with two other local authorities (West Oxfordshire District Council and Forest of Dean District Council) and Publica Group, be approved;</p> <p>(b) that Mr Tony Oladejo, the ICT Audit and Compliance Manager in the shared Publica ICT team, be designated as the Council's Data Protection Officer.</p>
Reason(s) for Recommendation(s)	To ensure that the Council complies with the General Data Protection Regulation (GDPR), which comes into force on 25 th May 2018.

Ward(s) Affected	Not applicable
Key Decision	No
Recommendation to Council	No

Financial Implications	<p>There are no financial implications arising from this report as the designated officer is already employed by Publica and delivering services to the partners. As such, the costs for this are included within the contract sums previously agreed.</p> <p>If the requirements of the legislation become more onerous than anticipated, then a subsequent report will be presented to the partner councils setting out any additional resources that could become necessary.</p>
Legal and Human Rights Implications	Non-compliance with the GDPR requirements could lead to fines and penalties from the Information Commissioner's Office (ICO).

Environmental and Sustainability Implications	None
Human Resource Implications	The Human Resources implications will be met from within existing resources.

Key Risks	The Council must appoint a DPO, to include the duties required by Articles 38 and 39 of the GDPR. If this appointment is not made, the Council would be in breach of the law and would expose itself to sanctions from the ICO.
Equalities Analysis	Not required

Related Decisions	Cabinet - 15 th February 2018 - Approval of GDPR Policy
Background Documents	None
Appendices	Appendix 'A' - ICO Guidance re Data Protection Officers and their appointment

Performance Management Follow Up	Implement Cabinet decision(s).
Options for Joint Working	The proposed DPO appointment/designation is a joint role across the Publica Partner Councils and Publica itself.

Background Information

1. General

1.1 The General Data Protection Regulation (GDPR) is the new data protection framework for the EU and will apply in the UK from 25th May 2018. It replaces all current data protection legislation, including the Data Protection Act 1998 (DPA), although the data protection principles within the GDPR are similar to those in the DPA.

1.2 The GDPR will still apply to the UK on leaving the EU, regardless of Brexit. The Information Commissioner's Office (ICO) has been issuing regular updates on GDPR compliance.

1.3 The Data Protection Bill was announced in the Queen's Speech in June 2017. The Bill will implement the government's manifesto commitments to update data protection law preparing Britain for Brexit. The main elements of the Bill are: general data processing, law enforcement processing, National Security processing; and regulation and enforcement.

1.4 The Council is a registered data controller in its own right - it determines the purposes and means of processing its personal data. Publica is also a data processor for the four public authorities and other partners and is responsible for processing personal data on behalf of each partner.

1.5 On 15th February 2018, the Cabinet received and approved a GDPR Policy for the Council. Within that report, the requirement to appoint or designate a Data Protection Officer was identified. This report formally seeks approval of the designation of an existing employee to that post.

2. Designation of The Data Protection Officer

2.1 The GDPR requires all public authorities to designate or appoint a Data Protection Officer (DPO). The DPO's minimum tasks are defined in Article 39 of the GDPR, and these are:

- To inform and advise the organisation and its employees about their obligations to comply with the GDPR and other data protection laws;
- To monitor compliance with the GDPR and other data protection laws, and with the Council's own data protection policies, including managing internal data protection activities, raising awareness of data protection issues; training staff; and conducting internal audits;
- To advise on, and monitor, data protection impact assessments;
- To co-operate with, and be the first point of contact for, the supervisory authority and for individuals whose data is processed (employees, customers, etc.).

2.2 The ICO outline guidance on the DPO is attached at **Appendix A** to this report, which provides more detail about the DPO post and its responsibilities. Significantly, the DPO enjoys protections against dismissal within the Council while performing his/her duties, and the post-holder is required to report to the highest management level in the Council.

2.3 The Article 29 Data Protection Working Party has issued separate guidelines on DPOs. The guidelines clearly state that the officer performing the DPO role must avoid any conflicts of interest - the effect of this is that officers who hold the other statutory positions in the Council (i.e. Head of Paid Service, Monitoring Officer and Chief Finance Officer) cannot take up the DPO role.

2.4 Importantly, the GDPR specifically allows public authorities to share the DPO role with other relevant organisations and/or other local authorities.

2.5 The Cabinet is recommended to designate Mr Tony Oladejo as the Council's DPO. Mr Oladejo's substantive role is the ICT Audit and Compliance Manager in the shared Publica ICT team and current data protection responsibilities lie with him in his current role. At this stage, it is not anticipated that this will have an impact on his workloads, although this will need to be carefully monitored particularly in the early months of the new legislation taking effect when there may be heightened public interest.

2.6 It is not anticipated that this role will cover the responsibilities for Cheltenham BC (who have a bigger retained structure) or other third party clients; but only the three principal partners who have delegated the bulk of their services and employees to the company. The Councils and Publica will each have to formally agree the appointment on an individual basis.

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