

Scrutiny Committee A

14 December 2017

A2 Working Group – General Data Protection Regulations Review

Purpose of Report: Progress report

The Working Group met on 1st November, 2017.

The new General Data Protection Regulations replace the Data Protection Act in May 2018. The new regulations will apply to all of Europe from 25th May 2018. The Westminster Government is proposing to introduce a new Data Protection Bill which will mirror GDPR.

There is a new principle of “accountability” in the GDPR i.e. the Council will need to demonstrate how we are compliant with the regulations. Local authorities, are expected to rely upon the legislation that drives service delivery and make use of the provisions within Acts of Parliament which gives the Council powers to undertake public functions as their legal basis for the processing of personal information rather than the consent of the individual.

There were a number of issues highlighted as a result of the new regulations including:

- The loss of income by the Council not being able to charge for requests regarding what information the Council holds about an individual (Subject Access Requests);
- The likelihood that the numbers of subject access requests to the Council will double.
- The maximum fine for failure to comply with the new regulations is €20m or £18m, where there has been a failure to facilitate the exercising of rights under the regulations. Additionally maximum monetary penalties for breaches of personal data could be levied up to €10 or nearly £9m.
- To comply with GDPR the Council will need to:
 - develop, introduce and undertake Data Protection Impact Assessments where required
 - appoint a Data Protection Officer.
 - for any breaches the Council will have 72 hours to notify the Information Commissioner’s Office (ICO) of such breaches. This timescale includes periods including weekends and bank holidays.
- With regard to contracts with 3rd parties who deliver services on our behalf, such as voluntary organisations, the Council will need to ensure that rules are set out in the contracts and agreements with those providers.
- All services will need to undertake an Information Asset Audit and prepare Information Asset Registers, to ensure that the Council knows what data is being processed and where it is being stored.
- With regard to training for Members it was suggested that this would need to be mandatory and could be delivered by e-learning or by other methods. *[Note: Report*

considered by Member Development Working Group and was considered by the Democratic Services Committee in November]

- There were large pieces of work which the Council needed to undertake such as the Information Asset Audits, the assessments of the Information Risk.

Scrutiny recommendations to Cabinet on the Council's preparation for GDPR:

- **Due to the high risk to the Council from the potential fines, and enforcement actions, officers be asked to consider whether it is possible for the Council to insure itself against the possibility of high fines under GDPR or whether this could be undertaken on an all Wales basis.** *(Note – Insurance Section have confirmed that the Council cannot insure itself against a breach)*
- **One Voice Wales to be asked about whether information has been circulated to Town and Community Councils about GDPR.** *[Note – One Voice Wales has been contacted and they have advised Town and Community Councils and are preparing training]*
- **Services will need to have a clear understanding of the Legal Basis being relied upon for processing, rather than to rely on consent.**
- **There is concern that the numbers of subject access requests will rise significantly with the implementation of GDPR, together with the loss of income to the Council.**
- **There is a high risk to the Council in being able to implement the plan for GDPR if additional staffing resources are not made available.**
- **The cost to the Council of implementing GDPR should be costed.**
- **Data sharing and disclosure rules need to be clear in contracts and agreements with 3rd parties, and partners.**
- **Compliance requirements from previous ICO reports need to be addressed.**

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Background papers: Notes of meeting held on 1 November 2017

Group Membership: County Councillors G. Williams, K. Curry, S. Davies, J. Pugh.
Apologies from County Councillors E. Durrant and G. Jones.