

<b>Report to:</b>	<b>Members Development Working Group</b>
Report from:	Corporate Information Governance Group
Report for:	Decision
Date:	6 <sup>th</sup> November 2017
Subject:	Mandatory Training for Elected Members

## Background

All Powys County Council staff, including agency and consultants, with access to personal data are required to undertake and pass training on the Data Protection Act 1998 and the Council's Information Security policies, following an enforcement order made against Powys County Council by the Information Commissioner (ICO) following a number of serious breaches of the DPA.

Delivering training to staff meets an operational measure to protect the personal information that the organisation processes, as required under the seventh principle of the DPA. Since it is considered that staff having a greater degree of knowledge and being regularly reminded of their responsibilities reduces the risk to the Council's information.

However elected Members are mandated to only undertake DPA training in relation to their responsibilities as Data Controllers, including registration requirements etc.

As part of their duties Members are provided with access to Council information in addition to that processed by them as Data Controllers. They are also provided with IT equipment to access Council networks, information, and emails etc. in order to undertake their work.

Therefore there is a gap in the management of information risk.

Any breach of the Council's personal information caused by a Member would have to be investigated, in exactly the same way as a breach caused by a member of staff, or a technical failure. In the case of a serious breach or where the data subject complains to the ICO then the training received by those involved will be questioned.

Since the ICO have made an enforcement order previously with regard to training staff then it would be argued that Powys County Council understood the risks involved in not providing training to its elected Members.

Also were a Member to suffer a breach, as a Data Controller in their own right, this breach too could come to the attention of the regulator. As such training undertaken could be provided to the regulator as evidence of measures taken by the Data Controller to secure personal data.

The options available to manage this risk are provided below, identifying the benefits and risks to the organisation, and to Members themselves as Data Controllers.

**Option 1** – Do nothing more and accept the risk.

Benefits – No further action or resources required.

Risk – Any serious breach of Council personal information would involve the ICO, if this is a Member who hadn't received training then this could result in another penalty notice / enforcement order against PCC. This would have both a financial and reputational impact on Powys County Council.

**Option 2** – Members to be advised rather than mandated to undertake and pass the same E-learning courses as staff in addition to the DPA training provided to them as Data Controllers.

Benefits – Those who undertake the training would have a greater understanding of DPA and Council IT and Information Security Policies. Any knowledge gathered in learning how to protect Council data and IT equipment can be transferred to own data and equipment. Records of training undertaken are made publically available, and so the public can see that their Councillor takes their responsibility to their personal information seriously.

Risk – Without the training being mandated then some may choose not to do the training, the risks are then the same as for Option 1.

**Option 3** – DPA and IT & Information Security training to be mandated for Members by Council.

Benefits – Information risk reduced, even if breach occurs PCC can argue that the Member understood their responsibilities and Council policies and would support human error arguments.

Risk – Without an agreed escalation process then there is an opportunity for the training to remain uncompleted without further recourse. As such reporting and escalation processes would need to be developed, agreed, and implemented in order to evidence the information risk as having being mitigated.

### **Recommendation**

The Council's Senior Information Risk Owner recommended that option 3, would enable Powys County Council to include such evidence of training within a response to the regulator should a breach occur involving an elected Member. Additionally should Members be required to notify the Information Commissioner of a breach of information for which they are the Data Controller they can utilise the same evidence.

### **Reporting and Escalation processes for Option 3**

Currently monthly reports are produced into the Council's compliance with the ICO enforcement order. Staff who have been identified as requiring training and who have not undertaken and passed such training are included within these monthly compliance reports which are provided to Heads of Service and Directors.

Member's compliance with this mandatory training requirement could be included within the same reporting process, and passed to the Monitoring Officer. The Monitoring Officer would then be able to discuss with Member(s) the reason for training not being completed. Thus providing an opportunity for developing relevant work arounds where there may be reasons for training not being completed via E learning or Work books.

Further formal escalation would follow the process agreed by Council on the 15<sup>th</sup> July 2015 within report CC68-2015 Member Development – Mandatory and Non Mandatory Development.

Where a Member does not attend/complete a "Mandatory development" session they will receive an email from the Standards Committee advising them that they need to complete both the DPA and IT and Information Security E-Learning courses. They will be given details on how to access an alternative source of training from another source and the required date for completion.

Where a Member does not complete either one or both courses within the timescales designated by Standards Committee they will be required to provide a verbal/written explanation of why they have failed to complete the required development to the Standards Committee. The Standards Committee will require the Member to agree to complete the required "mandatory development" within a specified timescale.

If a Member continues to fail to complete the required training the Standards Committee can suspend that Member for a period of up to one month. During this period the individual will not receive their allowance and will not be able to act as a Councillor. However the Committee will take into account a Member's individual circumstance in considering the above.

This escalation process is the one for mandatory training agreed by County Council on 15<sup>th</sup> July, 2015.