

## AUDIT AND STANDARDS COMMITTEE

16 January 2019

<b>Title:</b> Information Governance Annual Report	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> No
<b>Report Author:</b> Nick Lane, Head of Client Unit	<b>Contact Details:</b> Tel: 020 8227 2420 E-mail: <a href="mailto:nick.lane@lbbd.gov.uk">nick.lane@lbbd.gov.uk</a>
<b>Accountable Director:</b> Claire Symonds, Chief Operating Officer	
<b>Summary:</b>  In the year that saw the biggest changes in data protection law in 20 years coming into effect, this report provides an update on information governance issues within the Council. This report also sets out the work that has been completed in the past year.	
<b>Recommendation(s)</b>  The Committee is recommended to:  (i) Note the work that has been on-going to improve Information Governance within the Council. (ii) Note the planned actions for 2019/20.	
<b>Reason(s):</b>  To provide the Committee with an update on the Council's Information Governance work.	

### 1. Introduction and Background

- 1.1 This paper forms the annual report on information governance to the Audit and Standards Committee. Information Governance primarily focuses on the Council's obligations under the Freedom of Information Act, Local Authority Transparency Code and now the new General Data Protection Act and the Data Protection Act 2018.

### 2 Information Governance 2018 - overview

- 2.1 On 25<sup>th</sup> May 2018, the biggest change in data protection law in 20 years, the General Data Protection Regulation (GDPR), came into effect. The new regulation introduced a number of additional data rights for individuals and made changes to the subject access rules, for example, reducing the response time from 40 to 30 days. There was also a significant

increase in the amount that could be levied as a financial penalty in the case of a severe data breach.

2.2 In order to provide assurance to residents that the Council correctly and safely manages their data, and to ensure that the Council was as compliant as it could be with the new legislation, a GDPR work programme was established. The programme identified a number of improvements were required including:

- recording all data assets and data processing activities;
- revising privacy notices - these tell residents how the Council will process / use their data;
- implementing privacy impact assessments (a mandatory activity requiring staff to record their assessment of the personal data implications / risks of any new project);
- updating website guidance and
- training to staff and members.

2.3 A separate workstream to ensure better management of records – both paper and electronic - was identified and integrated into the Council's highly successful New Ways of Working programme.

2.4 In implementing the GDPR work programme, the Council has produced a series of nine new, or amended policies, designed to assure and advise citizens on how the Council processes their personal data. They also, critically, set out how they can apply their new data rights, such as:

- the right to be forgotten,
- the right to rectification,
- the right of erasure and
- the right to object to processing.

2.5 More detailed privacy notices are being developed to provide detailed insight for citizens on how the Council manages their data, on a service by service basis.

2.6 Resolving long standing records management issues have been a key deliverable of the New Ways of Working Programme, which has focused on the paper records and the structured and unstructured data held on computer drives that each staff member use in their daily work. This programme of work has identified over 2 km's of paper and to date has scrapped 1km of this and is developing a business case to scan or scrap the remainder. Appendix A provides a high level view of the action plan.

2.6 Following an audit of the Council in 2017 by the Office of the Information Commissioner (ICO), work has continued to implement the actions arising from the action plan sent to the Council in September 2017. This now has an expected completion date of April 2019.

### **3 Freedom of Information Requests (Fol)**

3.1 The Council continues to see an increase in the number of FOI requests received. A large proportion of these come from press and media organisations and supplier organisations and the Council cannot levy a charge for responding to requests.

- 3.2 The ICO expects public authorities to be responding to at least 90% of FOI requests within the mandatory 20 working days. The Council's current compliance rate is around 78%, however, we are confident that working with departments we can reach and maintain the target within 6 months.
- 3.3 In mid-2018, the Council began to publish all FOI responses on the Council's website in line with ICO requirements, at: [www.lbbd.gov.uk/freedom-of-information](http://www.lbbd.gov.uk/freedom-of-information), this means that requesters can see if we have already answered a query that they may have and in so doing prevent a further request being submitted.
- 3.4 Fol Requests received:
- In **2016/17** the Council received **1478** requests
  - In **2017/18** the Council received **1594** requests
- 3.5 Requests responded to within the 20 day deadline:
- In **2016/17** the Council responded to **48%** of requests within the deadline
  - In **2017/18** the Council responded to **93%** of requests within the deadline
  - 1<sup>st</sup> April 2018 to 30<sup>th</sup> October 2018 the Council responded to **78%** of requests within the deadline

#### 4 Subject Access Requests

- 4.1 The Council received 388 Data Protection Act Subject Access requests for the period 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018, of which 89% were answered within the 40 day deadline. A subject access request is when an individual requests data about them, held by the council. Answering a request can take up a considerable amount of staff time in collating and then redacting personal information (of third parties) in documents held by the Council; it is not untypical to have to redact data from files containing several thousand pages before they are safe to release to the requester.
- 4.2 For the period 1<sup>st</sup> April 2018 to 30<sup>th</sup> September 2018 the Council received 195 Data Protection Subject Access requests. This represents an increase in requests of around 15% on the same period last year and of these requests 71% were responded to within the new 30 day deadline. We believe that the increase in requests is due to the GDPR changes which removed the £10 fee and raised public awareness of data subject rights.

#### 5. Data breaches

- 5.1 Information data breaches continue to be reported and investigated internally to ensure that lessons are learnt and the likelihood of breaches is reduced and arising risks are mitigated. The latest information on data breach incidents is shown in the table below, whilst these cases are regrettable, they are generally too minor in nature to attract any enforcement action from the ICO:

Category	Jan- Dec 2016	Jan-Dec 2017	Jan – June 2018
Computer / laptop stolen / lost	0	0	0
Confidential information disclosure	1	3	5
Papers left on printer or in public area / lost	1	3	1

RSA token lost / stolen	0	0	0
Unsecure email or scan sent / incorrect recipient	2	5	11
Improper storage of information	0	2	9
Information sent to 3rd Party	6	12	8
Other	0	7	3
<b>Totals</b>	<b>10</b>	<b>30</b>	<b>37</b>

- 5.2 The levels of reported breaches have shown a noticeable increase. We believe this is because of greater awareness of the need to report even minor breaches, in part as a result of the annual data protection training which is mandatory for staff. Critical breaches still occur, on average, about twice a year and it is these that are the main focus of our prevention / management activity. One critical case was self-reported to the Office of the Information Commissioner (ICO) in 2016, none in 2017 and 4 in 2018. In all cases the ICO felt that the council took sufficient steps to mitigate, and accordingly no further action was taken.
- 5.3 The detail of each critical breach is discussed at Assurance Group to identify issues, trends and mitigations that need to be addressed.

## 6. Work plan review for 2018

2018 workplan activities	Current Status	Future Planning
Assurance Group	A standing item of Report of the SIRO is on every agenda.	The Board will continue to meet monthly and promote good working practices and support information governance matters.
Develop, implement and recruit to the role of Information Governance Manager	The post was created, and the successful applicant took up the post on 29 October 2018 after the previous incumbent left in June 2018.	Responsibilities include: <ul style="list-style-type: none"> <li>• Continue the work of implementing the new GDPR requirements</li> <li>• Review and improve performance regarding all matters relating to information compliance (FOI, SAR)</li> <li>• Provide advice, training and support to staff and managers regarding</li> </ul>

		information governance matters <ul style="list-style-type: none"> <li>• Produce and implement a number of policies to support information governance</li> <li>• Support work on the ICO audit</li> </ul>
Information Commissioners Audit	Action plan revised in July 2018	Compliance to be achieved by April 2019
Implement GDPR and New Ways of Working (NWoW) initiatives	Work on unstructured data underway	All data and information assets to be handled and processed in line with NWoW guidelines

## 7 Work plan priorities for 2018/19 and into 2019/20

### 7.1 Priorities will be:

- a review of FOI handling and responses to improve performance to 90% and to maintain the Council's performance.
- complete London benchmarking and aligning our performance to the London level for Subject Access Requests
- records management training for asset owners and addressing any gaps identified in data processing within departments
- updated information transparency data on the website: [www.lbbd.gov.uk/publication-scheme](http://www.lbbd.gov.uk/publication-scheme)
- Data Protection Impact Assessments to be initiated for all new project activity
- a review of all processing activities that rely on consent as the legal basis for processing, eg: Borough newsletter etc.
- creating an audit process to provide assurance within departments that policies and procedures are being complied with

### Background Papers Used in the Preparation of the Report:

None

### List of appendices:

Appendix A – summary of the GDPR action plan