



**Corporate Policy and
Resources Committee**

Date: 12/4/2018

Subject: Data Protection Policy – Privacy Notice Revision

Report by:

Director of Resources

Contact Officer:

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Purpose / Summary:

The General Data Protection Regulation (GDPR) comes into force on 25 May 2018. This report requests that members approve the revised Privacy Notice for adoption.

RECOMMENDATION(S):

1. To approve the revised Privacy Notice for formal adoption.
2. Delegated authority be granted to the Director of Resources to make minor housekeeping amendments to the Notice in future, in consultation with the chairman of the Corporate Policy & Resources committee and chairman of Joint Staff Consultative Committee (JSCC).

IMPLICATIONS

Legal: This report introduces a new policy to comply with the General Data Protection Regulation (GDPR). GDPR will be brought into UK law by the Data Protection Bill (currently before Parliament) on or before 25 May 2018 at which time the Data Protection Act 1998 will be repealed.

Financial : FIN/163/18/SL

There are no financial implications arising from this report.

Please note that non-compliance with the General Data Protection Regulation (GDPR) could lead to fines of up to 20 million euros (approx. £17.5 million), or 4% of turnover for the preceding financial year, whichever is the greater.

Staffing :

None.

Equality and Diversity including Human Rights :

This report supports the rights and freedoms of all individuals by demonstrating West Lindsey District Council's compliance with the General Data Protection Regulation (GDPR) Article 5(1)(a) which states that: "Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject".

Risk Assessment: None.

Climate Related Risks and Opportunities :

N/A

Title and Location of any Background Papers used in the preparation of this report:

None.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

x

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

x

1 Introduction

- 1.1 On 25 May 2018 the General Data Protection Regulation (GDPR) will become law across all member states of the EU simultaneously. The GDPR represents the most significant change to privacy legislation in 20 years and strengthens the rights of living individuals in a complex digital age. The UK will need to comply with the GDPR while it is still a member of the EU and will still need to comply when it leaves in order maintain a level of adequacy for doing business with the EU.
- 1.2 The Council has been preparing for the change for 2 years and has put in place some of the changes necessary already. Much of the work has been hampered, however, by a lack of practical guidance but this has now started to be issued by the EU Article 29 Working Party (WP29) and by the Information Commissioner's Office (ICO).
- 1.3 This report introduces a revised version of the Council's Privacy Notice which has been updated to comply with the provisions of the GDPR.
- 1.4 The Privacy Notice combines all the requirements of a data subject's "right to be informed" as specified in GDPR Articles 13 and 14 into a single, plain English document. Published on the Council's website the document can be read by data subjects either as a complete entity or it can be linked-to from service-specific paper or electronic forms to provide supplementary privacy information required by the GDPR for that service. This complies with the "layered" approach to providing privacy information advocated by the WP29 and the ICO.

2 The Impact of the GDPR on the Council

- 2.1 The Council, because of the wide range of services it provides, can assume different roles when handling the personal data of staff and citizens. In some cases it will be a Data Controller and decide the purposes and method of processing. Sometimes it will be a Data Processor and process data on behalf of another Data Controller. The third role the Council can assume is that of a Joint Controller and share data with one or more other Data Controllers.
- 2.2 The GDPR strengthens the rights of individual's which will require us to process their data in a much more transparent and secure way and it makes us accountable for this. A failure to uphold the rights of data subjects could lead to fines in extreme cases of up to 20 million euros (approx. £17.5 million), or 4% of turnover for the preceding financial year, whichever is the greater.
- 2.3 GDPR gives data subjects a greater degree of control over the processing of their personal data by organisations. This requires us to provide individuals with concise, clear, intelligible and easily accessible information about what information we process and why, when and how we process it.

- 2.4 Unlike the Data Protection Act (DPA) 1998, Data Processors will also have some direct responsibilities under GDPR and may be subject to fines if they don't act only on the instructions of the Data Controller who has appointed them.
- 2.5 The ICO expects Data Controllers and Data Processors to put into place comprehensive but proportionate governance measures and good practice tools, some of which, such as privacy impact assessments, are now legally required in certain circumstances.

3 The Privacy Notice

- 3.1 The Privacy Notice (Appendix 1) is part of our Privacy Compliance Framework and details in a comprehensive and clear manner the categories of personal and special category data we process on behalf of:
 - visitors to our websites
 - people who register for an on-line account
 - people who register for and use our services
 - people who are referred to us by other persons, agencies, organisations
 - people who contact us with an enquiry or complaint
 - job applicants and our current and former employees
 - people who participate in publicity for the Council
 - people who are recorded on CCTV operated by the Council.
- 3.2 The Notice is published on the Council's website and demonstrates our compliance with the GDPR Article 5(1)(a) which states: "Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject".
- 3.3 GDPR gives data subjects a greater degree of control over the processing of their personal data by organisations. This requires us to provide individuals with concise, clear, intelligible and easily accessible information about:
 - Who we are and how to contact us and the Data Protection Officer;
 - Why we need to process their data and the legal basis for processing it;
 - Who we share their data with;
 - Any transfers of their data outside the EU and the safeguards used;
 - How long we keep their data;
 - Their rights;
 - Their right to lodge a complaint with the supervisory authority (the ICO);
 - Possible consequences of the data subject not providing the information; and
 - The existence and consequences of any automated decision making or profiling.

- 3.4 In line with best practice we provide this information using a layered approach. Key information is provided either verbally, when the data is collected over the telephone or face to face, or in the privacy information included with a paper or online form. In all of these methods the data subject is referred to the full Privacy Notice on the website which contains in much more detail the general information listed above.

4 Decisions Required

- 4.1 That members approve the revised Privacy Notice for formal adoption.
- 4.2 Delegated authority be granted to the Director of Resources to make minor housekeeping amendments to the Notice in future, in consultation with the chairman of the Corporate Policy & Resources committee and chairman of Joint Staff Consultative Committee (JSCC).