# Executive

## General Data Protection Regulation (GDPR) Update

Item 8


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| **Date:** | 16 January 2018 | | |
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**Summary:** This report:

- Informs Executive about London Councils preparations for the introduction of the General Data Protection Regulation in May 2018 and other related legislation.


**Recommendation:** Members of the Executive are asked to:

- Note the report and the work being done in preparation for the General Data Protection Regulation (GDPR) and regarding the Data Protection Bill.

General Data Protection Regulation (GDPR) Update

## 1. Background

1.1 London Councils is currently in preparation for the General Data Protection Regulation (GDPR) effective from 25th May 2018. The main changes introduced by GDPR will be:

- *An increase in the scope of companies covered by Data Protection*
- *Higher penalties for serious data infringements*
- *Increased clarity regarding consent for companies to hold personal data*
- *A requirement for written contracts between controllers and processors of data*
- *A mandatory duty to declare breaches*
- *The appointment of a specific Data Protection Officer (DPO) role*
- *Increased rights around data access and 'the right to be forgotten'*

1.2 In addition a Data Protection Bill was introduced into Parliament on 13 September 2017 and is currently at Report stage in the House of Lords. The London Fire and Emergency Planning Authority provided a helpful explanation of the function of the legislation which is copied below;

*The GDPR leaves plenty of gaps for member states to fill in. For example, it is up to member states to stipulate the grounds on which 'special category' personal data (formerly known as 'sensitive personal data' in UK law) can be processed. Exemptions from some individual rights and obligations (such as the right to make a subject access request, the right to be forgotten and to have personal data rectified) are also matters for member states. That is one of the main functions of the Bill: it fills in the gaps in the GDPR.*

*Another of the Bill's functions is to extend the GDPR into areas of data processing where it would not otherwise reach. For example, the GDPR does not apply to law enforcement or intelligence services activity, but the Government has voluntarily imposed a GDPR-like regime in those areas.*

*A third function of the Bill is to attempt to make UK data protection law Brexit-proof. Once the UK leaves the EU, the GDPR will no longer be directly applicable in this country. Crucially, however, a post-Brexit UK will need to have in place a data protection regime*

*that mirrors the GDPR; otherwise, the transferring of personal data between the UK and the EU will be extremely problematic. The Bill therefore strives to make UK data protection law stand on its own two feet while tracking the GDPR.*

*However, the Bill does not simply transpose the body of the GDPR into UK law. The Bill is not a copy-and-paste of the GDPR. Instead, it constantly cross-refers to the GDPR, meaning that one has to read both the Bill and the GDPR side by side. Neither document alone gives the complete picture of data protection in the UK.*

## 2. Progress to Date regarding GDPR

2.1 To some extent preparation for GDPR fits in with the existing programme of Information Governance work. The main elements of the programme – the creation of asset registers, risk registers and retention schemes for the various data elements in London Councils - are also core parts of the GDPR preparation plan.

2.2 However an internal team has been established from the Corporate Management Board (CMB) appointed Corporate Governance Group to oversee the preparation plan leading up to May 2018 and beyond (available as a background document to this report), and to sign off work as it is completed. The Senior Information Risk Owner (SIRO) remains the Director of Corporate Resources.

2.3 The main steer of the work is managed via London Councils Corporate Governance team, but a network of Information Asset Officers (IAOs) has been established to devolve ownership of the compilation of asset registers, to whom Corporate Governance provides support and advice.

2.4 For the next 6 months, the work will focus more heavily on personal data held by teams to ensure we meet GDPR requirements by 25th May 2018. General guidance about information governance, particularly the management of confidential data, will still be provided to all teams.

2.5 Work is also underway to review the contracts register with a view to review existing third party contracts which involve large amounts of personal data. The London Councils procurement toolkit is also being reviewed to ensure that future contracts build in GDPR requirements including breach reporting.

2.6 Key deliveries to date in terms of preparation have included:

- A revised Information Security policy
- Establishment of IAOs for all key areas
- Development of asset registers for key services

2.7 CMB have also recently reviewed the requirements for Data Protection Impact Assessments (or Privacy Impact Assessments) required for assessing processing requirements and mechanisms in relation to both new and existing work areas. To manage these requirements they have agreed that such assessments will be carried out for new projects and programmes and also where changes occur to existing programmes which involve personal data.

## 3. Training and Learning

3.1 Regular training of staff is a key component of good information governance. We have introduced an on line modular training tool, Bob's Business, for all staff, rolling out one short course every month from July 2017 to maintain awareness of information security issues.

3.2 Emily Salinger, Corporate Governance Manager, successfully completed a 'GDPR Practitioner' course with Act Now training in June/July 2017.

3.3 London Councils is a member of a number of cross London networking groups and is actively involved in the sharing of good practice with Local Authority partners.

## 4. Data Protection Bill

4.1 London Councils have been monitoring the Data Protection Bill in the hope that it would have provisions that enable us to process sensitive personal data for our services without needing to ask for consent (which has a high threshold under GDPR and would have been difficult and costly to implement). Although the legislation included provision for processing data relating to 'social protection', it was not clear that it would apply to non-statutory services like Taxicard.

4.2 A team at London Councils secured, via the Policy and Public Affairs office and a Peer (Lord Tope) a tabled amendment to the Bill during its Committee Stage which would have alleviated concerns. Following a short debate on the issue, namely on Taxicard, the government requested the amendment be withdrawn so they could continue working on the issue. The amendment was withdrawn but the response to our concerns was positive. Lord Tope has asked that he be kept updated and is keen to return to the issue if no resolution is found.

4.3 We are also considering a proposal for approaching the Information Commissioners Office (ICO) regarding the Taxicard consent issue so they can consider situations like ours within their guidance.

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**Background Papers**

GDPR Project Preparation Plan

**Financial implications for London Councils**

There may be financial implications arising from the GDPR preparation, both in identifying issues and resolving them, however it is not possible to quantify these costs at the moment.

**Legal implications for London Councils**

London Councils is required to adhere to the provisions of relevant information management and data protection legislation. It is likely that the improvement programme and GDPR preparation will require further legal advice, particularly on some of London Councils contracts and as a result of the commitment to seek legal advice on data sharing agreements.

**Equalities implications for London Councils**

None.