

10.00am, Thursday, 3 May 2018

## Designation of a Council Data Protection Officer

Item number	8.2
Report number	
Executive/routine	
Wards	
Council Commitments	<a href="#">Delivering a Council that works for all</a>

### Executive Summary

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This report asks Council to approve the designation of the post of Information Governance Manager as the Council's Data Protection Officer in line with the statutory requirements of the [EU General Data Protection Regulation](#) and the proposed [Data Protection Act](#).

## Appointment of a Council Data Protection Officer

### 1. Recommendations

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- 1.1 To approve the designation of the post of Information Governance Manager as the Council's Data Protection Officer.
- 1.2 To appoint Kevin Wilbraham as the Council's Data Protection Officer.
- 1.3 To delegate power to the Chief Executive to make such amendments to the Scheme of Delegation to Officers to reflect new statutory requirements under the EU General Data Protection Regulation and the proposed Data Protection Act as necessary.

### 2. Background

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- 2.1 From 25 May 2018, the existing Data Protection Act 1998 will be replaced by new legislation in the form of the EU General Data Protection Regulation ("GDPR"), and a new Data Protection Act which is currently a Bill making its way through the UK Parliament ("the new DP Bill").
- 2.2 Under Articles 37-39 of GDPR and sections 67-69 of the new DP Bill, the Council must designate a Data Protection Officer (DPO).
- 2.3 A DPO is responsible for ensuring that their organisation is compliant with GDPR and the new DP Bill. The role is a new mandatory requirement for public authorities and includes the following tasks:
  - 2.3.1 providing advice and guidance to the organisation and its employees on the requirements of GDPR and the new DP Bill;
  - 2.3.2 monitoring the organisation's compliance;
  - 2.3.3 providing advice during Data Protection Impact Assessments;
  - 2.3.4 being the point of contact for data subjects and the UK Information Commissioner's Office (the regulatory authority for data protection); and
  - 2.3.5 taking responsibility for carrying out data audits and overseeing the implementation of compliance tools.
- 2.4 The DPO must be able to act independently, be adequately resourced and be able to report directly to senior management to raise concerns (when required)

### **3. Main report**

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- 3.1 The post of Information Governance Manager already has responsibility for the majority of DPO functions and is suitably experienced to undertake the role of the DPO.
- 3.2 There is no requirement under GDPR and the new DP Bill to create an additional new post within existing management structures.
- 3.3 The post of Information Governance Manager is therefore the most appropriate existing role to carry the designation of Data Protection Officer.

### **4. Measures of success**

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- 4.1 The Council meets its obligations under GDPR and the new DP Bill.

### **5. Financial impact**

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- 5.1 The Council could be subject to enforcement action from the UK Information Commissioner if it did not appoint a DPO, including financial penalties.

### **6. Risk, policy, compliance and governance impact**

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- 6.1 The Scheme of Delegation to Officers will be amended to reflect new statutory requirements under the EU General Data Protection Regulation and the new DP Bill.
- 6.2 If a DPO is not appointed, the Council would be in breach of the new legislation and subject to potential enforcement action.

### **7. Equalities impact**

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- 7.1 There are no equalities issues arising from this report.

### **8. Sustainability impact**

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- 8.1 There are no sustainability issues arising from this report.

### **9. Consultation and engagement**

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- 9.1 There has been significant discussion with relevant stakeholders (e.g. Head of Legal and Risk) and the GDPR Assurance and Challenge Group.

## 10. Background reading/external references

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- 10.1 [Guide to the General Data Protection Regulation – UK Information Commissioner](#)
- 10.2 [Draft Data Protection Bill – UK Information Commissioner](#)
- 10.3 [EU Working Party Guidelines – Role of the Data Protection Officer](#)

### **Andrew Kerr**

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