

13 December 2017

Agenda Item: 6

REPORT OF THE CORPORATE DIRECTOR OF RESOURCES

INFORMATION GOVERNANCE IMPROVEMENT PROGRAMME UPDATE

Purpose of the Report

1. The purpose of the report is to update Governance and Ethics Committee on progress in establishing the Information Governance Improvement Programme and seek approval for additional resources to support information governance efforts across the Council.

Information and Advice

Background

1. The Council's Information Governance (IG) approach requires improvement – evidenced by internal and other audit findings; difficulties in supporting the Independent Inquiry into Child Sexual Abuse (IICSA) and a recent fine by the Information Commissioner's Office ((ICO). Most significantly though, in terms of an imperative for improvement in this area, is the advent of the General Data Protection Regulation (GDPR). This EU law will be brought into force on 25th May 2018 and further specific UK arrangements will be implemented via a new Data Protection Act which is expected to gain Parliamentary approval in December 2017.
2. The change in the law recognises how important personal data is in the 21st century and seeks to put in place safeguards and controls fit for the digital age. It is a step change in data protection law which sees a shift in the balance of power from the organisations that process data to the citizen's to whom that data belongs. The new law will place increased IG responsibilities on the Council (and other data controlling / processing organisations). It also introduces more punitive measures for worst case data breaches and non-compliance with the law (maximum fines of £17m and £8.5m respectively).
3. Against this background, Policy Committee considered and agreed proposals for an Information Governance Improvement Plan and Programme at its June 2017 meeting.

Programme Set-Up

4. Under the new GDPR principle of accountability, organisations are expected to be able to evidence their compliance with the law. The Information Commissioner's Office (the UK regulator for Data Protection) will be looking for organisations to evidence and demonstrate a commitment and journey towards GDPR compliance. Therefore, a key task

has been to set up the IG Improvement Programme to ensure that key facets are documented and in place.

5. A Programme Board has been established and is chaired by the Corporate Director for Resources who is also Programme Sponsor and the Council's Senior Information Risk Owner (SIRO). A Programme Delivery Group has also been established. Both the Board and Delivery Group have cross-Council representation.
6. The Board has agreed a Programme Definition Document (PDD) which set the vision for the Programme as:

A Council that protects and values information entrusted to it, in all that it does

7. Following further analysis, it has been decided to deliver the Programme in two sequential phases. The first phase will focus upon efforts to become GDPR compliant and is expected to run until late Summer/Autumn 2018. The second phase will focus upon document management to ensure a more structured and controlled approach to the way the Council stores and manages information.
8. One of the key tasks in the first phase of the Programme is to understand what data the Council holds; why it is held and for how long; what is done with it; where it comes from and goes to; who it is shared with; where it is stored; who can access it; and how it is destroyed.
9. In order to get a greater understanding of this, a cross-Council information audit will be undertaken and captured in an information asset register. The intention is that Programme staff will support Information Asset Managers (typically Group Managers) and/or their delegates to identify their information assets. This exercise will undoubtedly reveal gaps in data protection and information management practice (e.g. where Privacy Impact Assessments (PIAs); Information Sharing Agreements (ISAs); Privacy Notices etc. need to be in place.
10. An action plan will be produced for each of the services visited as part of the audit. Each action plan will detail the actions needed to address gaps, prioritised by risk. There is an expectation that a strengthened IG function (see resourcing below) will support teams to deliver the required actions.
11. Two pilots (Development Management Team in Place Department and the Adult Deaf and Visual Impairment Team in Adult Social Care and Health (ASCH)) have been undertaken to test the methodology for the information audit. Evaluation of the pilots and an assessment of wider roll out will take place during November 2017 with a view to roll-out commencing in January 2018.
12. As part of Programme set-up, research was undertaken into good practice from elsewhere. This identified that Essex County Council (ECC) is a leader in the field of IG, with a strong relationship with the ICO. Their IG Service was commissioned to undertake an IG Audit of the Council. This took place in September and, as expected, confirmed that there are gaps in the Council's IG performance. Audit recommendations have been added to the Programme where they did not already feature, where considered appropriate by

the Programme Board. The Council will use other support offered by ECC to deliver its IG Improvement Programme.

13. Aside from the information audit, another key strand of work within the Programme is revising the Council's Information Governance policies and procedures to ensure that they are GDPR compliant. The intention is that policies are drafted in the next few months with a view bringing them to this Committee on 1st February 2018 and then onwards to Policy Committee March 2018.
14. Other elements of the Programme that need to be advanced are summarised below with indicative timelines.

Area	Description	Timeline
Information Security	Review, update and document information security approaches in line with GDPR requirements.	Start Nov 17 Finish May 18
Third party data processors	Undertake risk assessment and seek assurance of GDPR compliance from high risk third party data processors. Devise a framework for GDPR compliant contract and procurement terms.	Start Oct 17 Finish March 18
Privacy by Design	Design and document process to ensure data protection is a key consideration at the outset and during the implementation of business change (e.g. projects; systems; process; procurements etc.)	Start Oct 17 Finish March 18
Training	Review, specify and secure generic and role specific IG training in line with training standards.	Start Jan 18 Finish April 18

15. A programme plan has been developed although this will need to be iterated as circumstances change. For instance, to account for the passing of the UK Data Protection Act, which may supplement the GDPR in the UK. Also, to recognise that the delivery of the Programme is contingent on availability of suitable resources (see below).

Schools

16. The GDPR will have a significant impact on schools. Initial awareness raising has taken place through the County's portal for maintained schools and through the Governor's bulletin. The Council's Education Standards and Inclusion Service is working to put in place further support for schools during the Spring term, drawing upon ICO and Programme input wherever possible.

Resourcing

17. The June 2017 report to Policy Committee recommended that both temporary programme and permanent staff resources be secured to deliver the Programme and strengthen the

Council's IG function. The Council historically has only one full-time post dedicated to IG, with that post currently filled by an interim contractor.

18. The Programme discovery phase has established that, even with the additional two permanent posts agreed by Policy Committee, the IG function would still be inadequately resourced to be able to provide sufficient support to the business. By contrast, ECC has twelve full-time equivalent posts in their IG Service.
19. To address this weakness, it is recommended that further permanent resources are put in place to establish an IG business partner model to support Departments in their efforts to be GDPR compliant and manage their information assets. The total cost of permanent resources required, on top of that agreed by Policy Committee, would be £310,511 comprising:
 - Information Governance Advisor – 5 x FTE. The posts would provide functionally specific and consistent advice, guidance and support to Departments and develop thematic expertise such as for training, information sharing, privacy impacts etc. Posts subject to full job evaluation.
 - A small development budget for training and strengthening the work of the function.
 - A higher than anticipated salary for Data Protection Officer (see next paragraph).
 - An additional Business Support Officer (subject to full job evaluation) to coordinate information governance activity and practice across Legal, Democratic and Information Governance functions
20. Under GDPR, the Council must have a designated Data Protection Officer (DPO) who will provide expert advice on the Council's compliance with data protection law; have resources at their disposal; and report to CLT. Policy Committee agreed to the establishment of, and funding for, this post in June 2017. This post is deemed to be more senior than originally envisaged and therefore some additional funding is needed to bridge the salary gap (indicative Hay Band C to E) and this is contained in the request for additional resources above. It is proposed that permanent IG staff are managed by the DPO in an IG function.
21. It should be noted that suitably qualified and experienced data protection staff are extremely difficult to secure in the current market. Efforts to appoint agency staff to provide additional subject matter expertise have largely proved fruitless. To avoid a scenario where there is inadequate resource in this area, a contingency will be put in place to enable the Council to recruit and develop existing staff with the right attitude and aptitude for the roles, with training and support provided to bridge the data protection and information management knowledge gap.
22. Owing to the anticipated difficulty in this labour market and the short timescales before GDPR becomes law, it is proposed that delegated authority is given to the Corporate Director for Resources to vary structures and approaches in relation to IG within the overall budget envelope for the function and Programme.
23. In terms of temporary Programme resources, ICT has identified that additional costs are likely to be incurred beyond that approved by Policy Committee in June 2017. Resource requirements will impact across many areas of ICT operations including information

architecture, access arrangements, ICT security, service desk and data flow mapping and the most effective way to meet those needs is by securing contractor capacity. The estimated cost of this is £200,000 (based on 24 months of contractor time) over 2017/18; 2018/19 and 2019/20 to be used flexibly to meet Programme needs.

24. An additional temporary Programme Officer is also required to develop key aspects of the Programme given the level of resources that need to be devoted to the afore mentioned information audit. The total cost of this is £91,180.
25. Funding to meet the additional temporary (£291,180) and permanent (£310,511) resources set out in this report will be met through a request from contingency and the Section 151 Officer is aware of this.
26. If these additional resources are agreed, it is proposed that IG staffing structures and budget are reviewed by December 2019 to take account of the impact of the change in data protection law and the transition of the Information Governance Improvement Programme to business as usual.

Communication

27. A communication plan has been developed for the Programme. This identifies and segments key stakeholders and the proposed nature and method of communication with them. It is intended to run a consolidated campaign, with key messages to raise and profile the importance of data protection and good information management. This will build upon the 'Data Wise' campaign of last year and, alongside more targeted communications, will align to key milestones in the Programme plan.
28. The Extended Leadership Team on 14th November focussed upon GDPR, the importance of data protection. Experience from elsewhere suggests that senior management championing and role modelling of information management good practice is an imperative in creating the necessary cultural change in attitudes and behaviours.

Risk

29. There are a number of IG related risks to the Council. The key risk is that the Council, like nearly every other data controlling / processing organisation in Europe, will not be GDPR compliant by 25th May 2018. However, the ICO has acknowledged this but they are expecting Authorities to have a clear risk-based approach and plan to full compliance.
30. More broadly, a register of IG risks and issues has been developed and will be actively managed and reviewed by the Board to ensure Programme delivery can be kept on track.

Other Options Considered

31. The report is broadly reporting on progress in delivering the Programme.
32. In terms of resourcing for IG, various options were considered related to the levels of staff required. The preferred option set out in this report is benchmarked against resource levels in some similar local authorities. It reflects the fact that a step improvement is needed in this area in order to support the Council's journey to be compliant with the new.

The two year review point will enable structures to be assessed against progress and performance at that time.

33. In terms of the DPO, various options were considered including assigning the role to existing posts in the Council's structure. These were discounted either on the grounds of the postholder not having sufficient capacity / IG expertise and / or being conflicted in undertaking the role.

Reason/s for Recommendation/s

34. The recommendations were arrived at following an assessment of the options available. They are considered to offer the most cost effective solution to meeting the resource requirements of the IG Improvement Programme and the permanent capacity for IG given existing gaps in this area and the need for the strengthened approach required by the new law and taking account of the risks of non-compliance.

Statutory and Policy Implications

35. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

- 1) Consider the report and agree the frequency of updates required to this Committee.
- 2) Agree the approach to developing the Council's information governance function and the additional permanent and temporary resources as set out in the resources section of the report, paragraphs 17 to 26 subject to approval of allocations from contingency by the Finance and Major Contracts Management Committee.
- 3) Delegate authority to the Corporate Director for Resources to vary structures and approaches in relation to information governance within the overall budget envelope for the information governance function and Programme.

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For any enquiries about this report please contact: Caroline Agnew

Constitutional Comments ([SLB 30/11/2017])

36. Governance and Ethics Committee is the appropriate body to consider the content of this report.

Financial Comments (NS 5/12/17)

37. When the Council approved the Budget last February it also set out the current financial challenges faced by the Council over the medium term. In approving any requests for further funding the Council has to be mindful of the shortfall in funding of £62.9m over the next 3 years. Consequently, in approving these proposals it is necessary for the Committee to understand there is a level of risk that bids for additional funding may be reduced. This will need to be mitigated in some respects by underspends elsewhere in the department. All proposals for permanent funding in future years will be considered when compiling the Budget for 2018/19.

HR Comments ([JP 04/12/17])

38. The additional resources identified in the body of the report are subject to full job evaluation and will be recruited to under the Authority's recruitment policy.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Information Governance Improvement Programme – Programme Plan

Electoral Division(s) and Member(s) Affected

All