

14 January 2019

Agenda Item:7

UPDATE REPORT OF SERVICE DIRECTOR – SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE & IMPROVEMENT AND SECTION 151 OFFICER

GENERAL DATA PROTECTION REGULATION (GDPR), THIRD PARTY SUPPLIER CONTRACTS.

Purpose of the Report

1. To provide members with further update on the work that has progressed since September 2018 regarding the General Data Protection Regulations (GDPR) and the compliance of NCC's third party suppliers and our contractual arrangements.

Information

2. The GDPR legislation strengthens the controls and rights that citizens have over their own personal data. The new law places increased information governance and data protection obligations on the Council (and other data controlling/processing organisations). It also introduces significantly higher penalties for worst case personal data breaches and failure to evidence compliance with the law (maximum fines of up to £17m).
3. Both Data Controllers and Data Processors can face claims for compensation where they have not complied with their obligations under GDPR.
4. Crown Commercial Service provided specific guidance to all governmental bodies regarding actions that needed to be undertaken with both existing and future contracts with suppliers.
5. The Corporate Procurement Unit (CPU) identified 134 existing contracts delivered by over 300 suppliers that required amending to bring them in line with the new legislation
6. Notification of the changes to data protection legislation and the requirement to amend those contracts appropriately was issued to all those identified suppliers. When we reported in September 2018 we had completed 83% of those contract amendments, we have now increased this to 95%. The 5% remaining are being discussed and amended with the stakeholder, legal services and procurement officers. The remaining contracts, whilst not of a significant combined value of £297k, still need to be addressed. It is envisaged that these will be resolved before the end of the financial year.
7. The number of those returned amended contracts was at 56% in September, the return rate now is 93% with this figure improving on a daily basis.

8. There is still a requirement for due diligence to be undertaken with these varied contracts to ensure compliance. It is proposed that this is met by a follow-up letter (3 months after the contract variation has been issued) to confirm obligations are being met. These letters will begin to be processed and issued from January 2019 onwards. On-going due diligence of data protection compliance would need to form part of overall contract management arrangements (including internal audit provisions etc).
9. For all new contracts, pre-procurement dialogue includes GDPR information to ensure that potential bidders are aware of their obligations. In addition compliance questions relating to GDPR form part of the supplier selection process.
10. Capacity in the information governance team has increased with the appointment of new officers to support individual departments with understanding and complying with GDPR requirements. These officers are working in collaboration with the procurement service on all new contract planning and awards.

Statutory and Policy Implications

11. 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) Members to support the continuation of the approach to updating supplier contracts and embedding GDPR in all new projects.

Nigel Stevenson

Service Director – Service Director for Finance, Infrastructure & Improvement and Section 151 Officer

For any enquiries about this report please contact:

Clare Winter - Group Manager, Procurement

Constitutional Comments (SLB 02/01/2019)

12. Finance and Major Contracts Committee is the appropriate body to consider the content of this report.

Financial Comments (KRP 2/1/19.)

13. There are no specific financial implications arising directly from this report.

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.

- None

Electoral Division(s) and Member(s) Affected

- All