

17 September 2018**Agenda Item: 8****REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE &
IMPROVEMENT AND SECTION 151 OFFICER****GENERAL DATA PROTECTION REGULATION (GDPR), IMPLICATIONS FOR
CONTRACTS****Purpose of the Report**

1. To provide members with an update on the work that is in progress regarding the General Data Protection Regulation (GDPR) which came into force 25th May 2018, and the compliance of NCC's third party suppliers and our contractual arrangements.

Information

2. The new GDPR legislation responds to the digital age and 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. This guidance required us to identify all contracts which involve the processing of personal data and that would be live post 25/5/2018. The Corporate Procurement Unit (CPU) completed this and identifying 134 contracts delivered by over 300 suppliers.
6. Notification of the changes to data protection legislation and the requirement to amend those contracts appropriately was issued to all those identified suppliers. 83% of those contracts have now been amended with the remaining 17% in progress.
7. The number of returned amended contracts is currently 56% with this figure improving on a daily basis. These suppliers are likely to be in receipt of multiple contract variations from a number of customers so the return rate to date is considered to be a fair reflection of this.
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. 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.

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:

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Constitutional Comments (KK 06/09/2018)

12. The proposal in this report is within the remit of the Finance and Major Contracts Management Committee

Financial Comments (RWK 03/09/2018)

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