Nottinghamshire County Council

Data Security Incident & Breach Management Procedure

At a glance …

- A data security incident / breach affects the confidentiality, integrity or availability of personal or confidential data (including the destruction, loss, alteration, disclosure of, or access to, personal data) and must be centrally reported immediately
- Line manager(s) also need to be told immediately but this should not delay reporting.
- Immediacy is required as the Council has 72 hours to report more serious breaches to Information Commissioner's Office (ICO) (the regulator for data protection) and affected individuals may need to be told sooner.
- The Information Governance Team [tel: 0115 8043800] coordinates the incident / breach procedure and provides support to departments to act swiftly to minimise harm and learn from breaches.
- Data security incidents involving IT equipment, network and systems should be reported through the ICT Service desk [tel: 0115 977 2010].
- Where the Council is responsible for a personal data breach arising from the work it does for other organisations (e.g. schools), those organisations must be advised immediately of the breach. Likewise, organisations working for the Council must report breaches to us immediately and contract provisions must require this.
- Immediate action should be taken on discovering a breach to contain and minimise its impact (e.g. retrieving / seeking the destruction of data disclosed in error). Advice will be available upon reporting.
- More serious incidents will need to be investigated to establish what went wrong and identify measures to prevent reoccurrence at a team and wider level.
- Group Managers will be advised of all data security incidents / breaches in their areas, as will the Data Protection Officer (DPO). Service Directors, the relevant Caldicott Guardian and the Senior Information Risk Owner (SIRO) will be advised of more serious breaches.
- The DPO will liaise with the SIRO and Caldicott Guardian (where appropriate) to determine whether a breach should be reported to the ICO and / or data subjects.
- All incident and breaches will be logged. Quantitative and qualitative reports will be produced to support organisational learning and improvement.

Background

1. The County Council is responsible for the confidentiality, security and integrity of all information processes. It must ensure that any information security incidents which could cause damage or distress to individuals whose data the Council holds; to the Council's assets and / or reputation are prevented and/or minimised.

2. It is imperative that data security incidents are reported immediately. Failure to notify immediately on discovery significantly increases risk and exposure to affected individuals and the Council.

3. This procedure forms part of the suite of documents that comprise the Council's Information Governance Framework and is a requirement of the Information Compliance Policy.

4. It is informed by the Security Incident Response Standard which is one of the collection of standards that comprises the Information Security Policy and complements the ICT Cyber Security Response Process.

Purpose

5. The purpose of this document is to specify the procedure for the management and reporting of incidents and data breaches by the Council, ensuring that:

    a. Data security incidents are dealt with quickly and efficiently.
    b. A consistent approach is applied to management and reporting of data security incidents
    c. The damage caused data security incidents is minimised.
    d. The likelihood of a recurrence of a data security incident is reduced by the review and implementation of appropriate measures.

Scope and Definitions

6. This procedure applies to all staff including; employees, councillors, agency staff, contractors, volunteers or any other persons who have access to, or use the Council's information.

7. Reference to information and data in this procedure is used as a collective term. The primary focus is on personal data, although most of the same considerations apply to other sensitive data, for example commercially sensitive information.

8. Information can be in any format including paper, electronic, digital images, voice recordings etc.

9. A data subject is defined as an identified or identifiable individual to whom personal data relates.

10. An information or data security incident is defined as an incident that has affected the confidentiality, integrity or availability of personal or confidential data.

11. A personal data breach is an information security incident which involves personal data and is defined as "*a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed*."

12. A personal data breach is reportable where it results in risk to the rights and freedoms of data subjects. Where this is deemed to the case the breach must be reported within 72 hours (including weekends) to the Information Commissioner's Office (ICO) (the enforcement body for data protection in the UK). Such a breach may also need to be reported to other parties such as data subjects (see the notifications section of this procedure).

13. Not all incidents will be personal data breaches and not all personal data breaches are reportable.

14. Some examples of information security incidents are given in the table at paragraph 28.

15. The Council contracts with suppliers (individuals and organisations) which collect, use and store personal data on the Council's behalf as part of the services provided (e.g. care homes etc.). These suppliers will need to report security incidents to the Council without undue delay and should have in place internal reporting requirements equivalent to this procedure.

16. Likewise, the Council will need to report security incidents concerning data processed on behalf of other organisations (e.g. schools) to those organisations in accordance with the terms of the contract(s).

Principles & Commitments

17. The Council recognises that from time to time 'things go wrong' and there may be a breach of security involving information or equipment holding information.

18. The purpose of this procedure is to ensure that all information security incidents are reported centrally to enable the Council to act quickly and effectively to minimise the impact, particularly on affected data subjects. .

19. Information security incidents can cover a multitude of situations, but will generally involve an adverse event which results, or has the potential to result in the compromise, misuse or loss of Council owned or held information or assets.

20. The impact of a security incident can vary greatly depending on the type of information or asset involved. For instance, it may lead to an infringement of

privacy, physical and emotional harm, fraud, financial loss, service disruption or reputational damage.

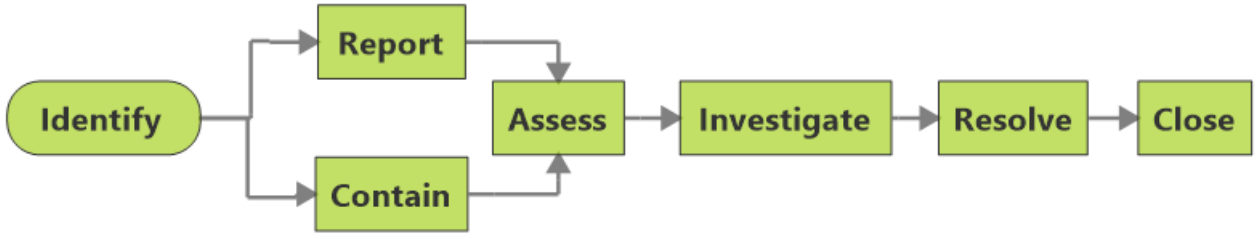
21. The purpose of reporting an incident is not to apportion blame but to ensure that any impact is minimised and lessons learnt can be identified and disseminated to minimise reoccurrences.

22. The principles of this procedure also apply to cyber incidents. Cyber incidents are any incidents that could or have compromised information assets within the Council's digital network (e.g. phishing emails or hacking attacks). Any cyber-related incident will be handled in accordance with the Council's ICT Cyber Security Response Process.

23. In the event that a cyber incident also involves a personal data breach then it shall remain subject to this procedure and the Incident Lead, supported by the Information Governance Team, will work in conjunction with the ICT Security Team(s) to resolve the incident and report to regulators where necessary.

Incident Management

24. This section outlines the key stages of incident management which are:



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Stage 1 – Incident Reporting

25. Any actual or suspected security incident must be reported immediately upon discovery. It is better to err on the side of caution and report if in doubt.

26. A direct line manager or supervisor should always be made aware of any information security incident and the incident reported in line with this procedure.

27. However, informing a line manager or supervisor of an incident must not delay any incident being reported nor should it delay taking steps to minimise the potential damage caused by the incident.

28. There are two routes for reporting security incidents within the Council, depending on the nature of the incident. These are as follows:

Security incidents involving ….	**Security incidents involving ….**

IT equipment, network and systems such as:	**Paper and non-IT specific incidents such as:**
• data changed by an unauthorised person • unknown people asking for access to council data • disclosing your password • accessing systems using someone else's user id and password • use of unapproved or unlicensed software on council equipment • Theft, loss or insecure disposal of council equipment (e.g. laptops, mobile phones, memory sticks, CDs etc.). • Unavailability of a key business system • sending an email containing sensitive or confidential information to 'all staff' by mistake • receiving unsolicited mail which requires you to enter personal data • Hacking / attempted hacking of data	• unauthorised sharing of data with third parties • loss, theft or unauthorised destruction of paperwork • Information sent to the wrong recipient. • failure to redact data • verbal disclosure of information • not using blind carbon copy (bcc) for sending emails containing personal / sensitive data • data left in an insecure location • unauthorised access granted to information • disposal of sensitive / confidential waste in recycling bins rather than confidential waste
To be reported immediately to	**To be reported immediately to**
IT Service Desk Tel: 0115 977 2010 Email (if out of office hours): itservicedesk@nottscc.gov.uk	Information Governance Team Tel: 0115 8043800 Email (if out of office hours): data.protection@nottscc.gov.uk
More information on the intranet HERE	More information on the intranet HERE

29. To address any overlaps, the ICT Service Desk and the Information Governance Team will triage calls and refer to the other, as appropriate. The ICT service Desk will liaise with the IT Security Team, depending on the severity of the incident.

30. The person reporting the incident should in the first instance telephone the ICT Service Desk or the Information Governance Team (depending on the nature of the incident) as soon as possible. They will be asked questions required to determine the risk and actions to be taken such as what happened, when it occurred, what information or assets were compromised, number of people affected and any immediate action taken to rectify the situation and minimise potential harm.

31. The person reporting the incident may, following the call, be required either to verify the details of the incident as recorded during the phone call or follow-up by completing an incident report form.

32. If the information security incident is reported outside of office hours, then a voicemail should be left and a message should be emailed to the Service Desk or the Information Governance email account and titled 'Urgent Data Incident.' An incident report form should be attached setting out as much detail as possible.

33. The Police should be notified immediately of any incidents involving stolen information or equipment and a crime reference number obtained. The individual who has had the equipment stolen is responsible for notifying the police.

34. When members of the public, information sharing partners and suppliers notify the Council of an incident they will be directed in the first instance to the Information Governance Team who will notify the Data Protection Officer and the IT Service Desk (where appropriate).

35. The incident will be logged on the Incident Logs used by the IT Service Desk / Information Governance Team.

Stage 2 – Incident Containment

36. The line manager of the member of staff who has committed a data breach should carry out actions to prevent further disclosure or damage as soon as practical.

37. For instance, in the event that information has been sent to an incorrect / unauthorised recipient, contact should be made with whoever received the information asking them either to return or delete it, depending on which is appropriate. They should also be requested to confirm that this has happened and whether the information had been further disclosed and to who.

38. Initial actions at this stage should also include ensuring that any evidence supporting the investigation of the security incident is isolated and protected.

Stage 3 – Incident Assessment

39. The severity of an incident will be determined by a data incident assessment for which there will be an Incident Severity Assessment Form (available from the Information Governance Team).

40. Upon notification, an initial assessment of risk will be undertaken to determine a provisional incident severity rating and appropriate internal notifications will be made as per the applicable rating. Incidents that are reported by members of the public, which at the time of reporting consist of unsubstantiated allegations will not be subject to immediate internal notification. The internal notification process will be followed at such time there is evidence to substantiate an allegation.

41. Where incidents are personal data breaches and are rated as high risk consideration will be given as to whether the ICO, the affected data subject(s) and other parties should be notified.

42. This assessment will be made as soon as possible to ensure that any breach will be reported to the ICO within the 72 hour deadline where necessary. Any reporting to the ICO or other bodies will involve prior consultation by the DPO (or their nominee) with the SIRO and / or Caldicott Guardian (or their deputies), where appropriate.

43. An incident rating may change once the full facts and impact of risks has been determined and the status of the incident will be kept under review accordingly. In addition, this may involve updating any reports to the ICO and/or other parties accordingly.

44. Depending on the nature of the data incident, it may be appropriate to notify affected data subjects regardless of the initial risk assessment rating. The Data Protection Officer (or their nominee) will make an appropriate recommendation in such cases.

Stage 4 – Incident Investigation & Review

45. Not all incidents will require an in depth investigation to establish the facts and determine what went wrong. However, all incidents should prompt the consideration and recommendation of measures to avoid reoccurrence and this will form part of the reporting process.

46. The level of detail provided to IT Service Desk / IT Security Team or the Information Governance Team when reporting the incident (together with any information provided in the incident reporting form when completed) should usually be sufficient to understand the incident.

47. Where the incident is assessed as being of medium or higher severity, the Group Manager of the team in which it occurred will appoint an Incident Lead to investigate the incident where this is recommended by the Information Governance Team. For all other incidents, the line manager of the person responsible for the incident will carry out the investigation where necessary.

48. The IT Security Team and / or the Information Governance Team, as appropriate, will assign an Investigation Support Officer to assist the Incident Lead in the investigation and ensure that its findings are robust.

49. If any additional information is required then the Incident Lead will contact the person who reported the incident or any other persons involved in the incident to seek clarification or further information.

50. Where an incident is high risk and may require reporting to the ICO or any other relevant body, the DPO (or their nominee) and the IT Security Team (as appropriate) will assess the risk and identify and recommendations/actions. This will be done immediately after becoming aware of the incident and a meeting may be convened (remotely or in person) to discuss the matter.

51. The investigation should be completed and the investigation form returned by the Incident Lead as soon as possible and ordinarily no longer than 10 days after the incident occurred. Every effort should be made to conclude the investigation of more serious incidents sooner.

52. The investigation report will set out:

    (i) observations and conclusions about any information governance non-compliance issues, risks, adverse consequences or implications; and
    (ii) remedial recommendations (with owners and deadlines for completion) to mitigate the risks and impact including preventative measures; areas for improvement and training needs etc.
    (iii) It will also include the completed incident report, any additional information.

53. The competed investigation report will be reviewed by the assigned Incident Support Officer member within 5 working days but wherever possible sooner.

54. Any repeat or previous similar incidents will be flagged in the final incident report and may result in additional or escalated action.

55. The review will also take account of how well this procedure has operated and flag any scope for improvement.

56. This procedure is independent of a locally commissioned disciplinary investigation but the final incident report may inform any consequential action taken or considered.

57. Where a matter has been reported to the ICO or any other statutory body, the Incident Support Officer will continue to keep the ICO and other bodies updated on the investigation, incident review and outcome.

Stage 5 – Incident Resolution

58. The final investigation report will be sent to the relevant Group Manager to sign and accept the recommendations (within 5 working days of receipt).

59. If for any reason a recommendation is rejected then the Group Manager must specify the reasons why. Recommendations rejected by the Group Manager may be referred to the Data Protection Officer (or their nominee) for review and may prompt further discussion or escalation.

Stage 6 – Incident Closure

60. The assigned Incident Support Officer will be required to update the relevant Incident Log.

61. The Incident Support Officer will follow-up progress in completing recommended actions arising from the incident and update the log accordingly.

62. If the incident was reported to the ICO / data subject(s) or other parties, a final status and update will be recorded.

63. The DPO (or their nominee) will report incident performance to the Information Governance Board and Departmental Risk, Safety and Emergency Management Groups (RSEMGs) on a quarterly basis. This will contain both quantitative and qualitative data, providing analysis on incident trends, incident management and incident lessons learned / to be learned.

64. Reports on incident management and performance may also be produced for Council Committees.

65. An incident will only be closed when all aspects including the monitoring log updates have been completed.

Notification of incidents

Internal Notifications

66. Internal notifications will be determined in accordance with the incident rating as set out in Incident Assessment Form. The IT Service Desk or Information Governance Team will be responsible for notifications as appropriate.

67. The relevant Group Manager will be notified of all incidents that have occurred solely within their Group, the Service Director will be notified where the severity rating is medium or above. They will be required to nominate an Incident Lead to investigate the more serious incidents (i.e. those assessed as medium severity or above as recommended by the Information Governance Team).

68. Key senior staff (e.g. the Senior Information Risk Owner and Caldicott Guardians) and the relevant Service Director will be notified of the more serious incidents (i.e. those assessed as medium severity or above).

69. In notifying the incident internally, no personal data of affected data subjects will be communicated (i.e. the material that has created the breach). Arrangements can be made for this to be viewed by those who need to know in order to carry out their duties in accordance with this procedure.

External Notifications

70. **Information Commissioner's Office (ICO)**. The DPO (or their nominee) will act as a point of contact between the ICO and the Council. Any incidents resulting in risk to data subjects may amount to a serious breach and require notification to the ICO. Such breaches should be notified to the ICO within 72 hours of the Council first becoming aware. Where information is not available at the time of reporting, it should be provided to the ICO as soon as it is available.

71. The Data Protection Officer (DPO) (or their nominee) will be responsible for notifying the ICO where the breach is assessed as being a risk to data subjects' rights and freedoms. The DPO will liaise with the ICT Security Team (if necessary) and will consult with the Senior Information Risk Owner (SIRO) and Caldicott Guardian (where appropriate) prior to any notification to the ICO or other parties.

72. **Data Subjects.** There is a requirement to communicate a personal data breach to data subjects where it is likely to result in a high risk to their rights and freedoms. This should be done as soon as possible after that risk assessment has been made. The data subject should be provided with:

- the name and contact details of the Incident Lead, Data Protection Officer or another contact point where more information can be obtained;
- the likely consequences of the personal data breach; and
- a description of the measures taken, or proposed to be taken, to deal with the personal data breach, including, where appropriate, the measures taken to mitigate any possible adverse effects.

73. The Incident Lead will be responsible for ensuring the affected data subject(s) are notified, typically first verbally and then in writing. They need not do this themselves but it needs to be someone in the business who is able to assume responsibility for the breach having occurred (typically this will be a Team, Service or Group Manager). Advice and letter templates will be made available by the assigned Incident Support Officer to support this task.

74. **Organisations for whom the Council processes data.** Where the incident involves data which the Council processes for third party organisations e.g. schools; Alternative Service Delivery Models such as Arc (Property), Inspire (Libraries) Via (Highways), the incident will require notification to that third party in accordance with the requirements of the Council's data processing agreement and / or contract with them. Where there is no such requirement, the organisation's Data Protection Officer (DPO) or a senior manager needs to be made aware. The NCC contract manager also needs to be made aware of the breach.

75. The Information Governance Team will provide advice on any other notifications as appropriate for affected stakeholders depending on the established facts of the incident.

Roles and Responsibilities

76. All staff including: employees, councillors, agency staff, contractors, volunteers or any other persons who have access to, or use the Council's information staff must be aware of and comply with this procedure.

77. Duties assigned to specific roles referenced in this procedure must be carried out as described. The Council's Information Governance Framework provides further detail of the nature of specific information governance related roles (e.g. that of SIRO, Caldicott Guardian, Data Protection Officer etc.) see also the intranet page on IG roles and responsibilities.

78. HR will provide advice to parties implementing this procedure on any employment implications arising from security incidents or breaches.

79. The Council's Data Protection Officer and Information Governance Team must ensure that the requirements described in this procedure are implemented and maintained.

Compliance with this Procedure

80. The Data Protection Officer (or their nominee) may become involved in an incident at any stage if any stage of this Procedure is not progressing to a satisfactory outcome, and the matter may be escalated to the SIRO / Caldicott Guardian.

81. The Council wishes to foster a culture in which security incidents and data protection breaches are reported. The key objective is to develop valuable insight into how such events occur and staff can be assured that reporting a breach will not in itself result in disciplinary action.

82. However, wilful or negligent disregard for information governance policies and procedures will be investigated and may be treated as a disciplinary matter under the relevant employment procedure(s) which could lead to dismissal or the termination of work agreement or service contracts.

83. Personal data breaches which are the result of an intentional action or inaction may give rise to criminal charges under the Data Protection Act and Computer Misuse Act.

Review

84. This procedure will be regularly monitored and reviewed by the Data Protection Officer (or their nominee) who will revise it in line with learning arising from the implementation of the procedure.

85. Beyond that, the procedure will be monitored and reviewed every three years in line with legislation and codes of good practice.

Advice, Support & Further Information

86. If you have any issues over the clarity of these procedures, how they should be applied in practice, require advice about exemptions from the requirements or have any suggestions for amendments, please contact:

    The Information Governance Team
    Email: data.protection@nottscc.gov.uk
    Telephone: 0115 8043800

87. Further reading and supporting information:

Title (as hypertext link) and publication date	Author
Guide to the Notification of Data Security and Protection Incidents (September 2018)	NHS digital
Personal data breaches (webpages as at November 2018)	ICO

Document Control

Owner	Data Protection Officer
Author	Caroline Agnew, Data Protection Officer
Last Reviewer	Jason Monks, Senior IG Advisor (Deputy DPO)
Approver	Data Protection Officer
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Version	Date	Changes and Approver
1.0	07/12/2018	Original document approved by Information Governance Group
1.1	02/08/2019	Changes to reflect HR and Health and Safety comments and to update some aspects of process.
1.2	21/06/2022	(JM) General review and updates to incident investigation requirements

Appendix A - Incident Flowchart