Report to Audit Committee

Data Protection Update

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Purpose of Report

To update Members of the Audit Committee on the Council's progress to implement the Data Protection Act 2018.

Recommendation to the Audit Committee

The Audit Committee is asked to consider and note the contents of the report.

Audit Committee **7 March 2019**

Data Protection update

1   **Background**

1.1   The revised Data Protection Act 2018 (DP18) introduced with effect from 25 May 2018 brings into effect requirements applicable to the Council in the form of:

- The European Union (EU)'s General Data Protection Regulations (GDPR) with permissible modifications by the UK Government.

- The EU's Law Enforcement Directive. This is part of the EU's data protection reform framework and is separate from the GDPR. This is applicable to the Council as a 'competent authority' for law enforcement purposes.

- The functions and powers of the Information Commissioners Office (ICO).

- Changes in relation to the interface between data protection and the Freedom of Information Act 2000/Environmental Information Regulations 2004.

1.2   The Audit Committee as the appropriate Committee within the Council has received a previous report and agreed to receive reports twice yearly there-after. This is the second update report for 2018/19.

2   **Current Position**

2.1   The Council's Data Protection Officer continues to provide advice and guidance in relation to the Council, Unity Partnership Ltd, MioCare Group Community Interest Company (CIC) and 54 schools (directly maintained and Academies) based in Oldham. The Information Management Team continues to provide support and expertise across the wider information governance arena, e.g., information security, Freedom of Information requests and records management for these organisations.

2.2   The role, membership and frequency of the Project Board, overseeing the implementation of the revised DP18, has been reviewed as reported to this Audit Committee meeting in September 2018. It has been agreed that this Board will continue to meet every two months to review the progress made on implementing the requirements of DP18 so it can where appropriate make recommendations linked into DP18 for the Council, MioCare Group CIC, the Unity Partnership Ltd and the 54 schools.

2.3   The Council's phase 1 plan to implement DP18, which has been closed with the appropriate residual items and risks transferred to the phase 2 plan, is detailed in Appendix 1. MioCare Group CIC and the Unity Partnership Ltd have their own agreed plans and support is being provided to enable progress to be made in these wholly owned companies. There is a high level plan for the delivery of the support to the 54 schools, which are working in partnership with the Council on DP18. Progress with regard to Phase 2 of the Council's plan is detailed in Appendix 2 to this report.

2.4   The potential impact of Brexit on information sharing is uncertain at the time of writing. As and when the impact becomes clearer this will need to be factored into the plans of the Council and other bodies as appropriate. This will be reported back to the Audit Committee.

3   **Options/Alternatives**

3.1   There is one option presented for consideration which is that:

The Audit Committee considers and notes the contents of this report.

4   **Preferred Option**

4.1   The preferred option is that the Audit Committee considers and notes this report.

5   **Consultation**

5.1   Officers of the Council have been consulted in the preparation of this report.

6   **Financial Implications**

6.1   N/A

7   **Legal Services Comments**

7.1   N/A

8   **Co-operative Agenda**

8.1   Committed to the Borough - to visibly demonstrate that the Council is taking steps to ensure legal compliance.

9   **Human Resources Comments**

9.1   N/A

10   **Risk Assessments**

10.1   The Council needs to report to an appropriate member body on the implementation of DP18 which is this Committee. There are no specific matters to bring to the attention of the Committee at this point in time. (Mark Stenson)

11   **IT Implications**

11.1   N/A

12   **Property Implications**

12.1   N/A

13   **Procurement Implications**

13.1   N/A

14   **Environmental and Health & Safety Implications**

14.1   N/A

15   **Equality, community cohesion and crime implications**

15.1   N/A

16   **Equality Impact Assessment Completed?**

16.1   No, as a result of an EIA screening it was determined that a full EIA was not required.

17   **Key Decision**

17.1   No

18   **Key Decision Reference**

18.1   N/A
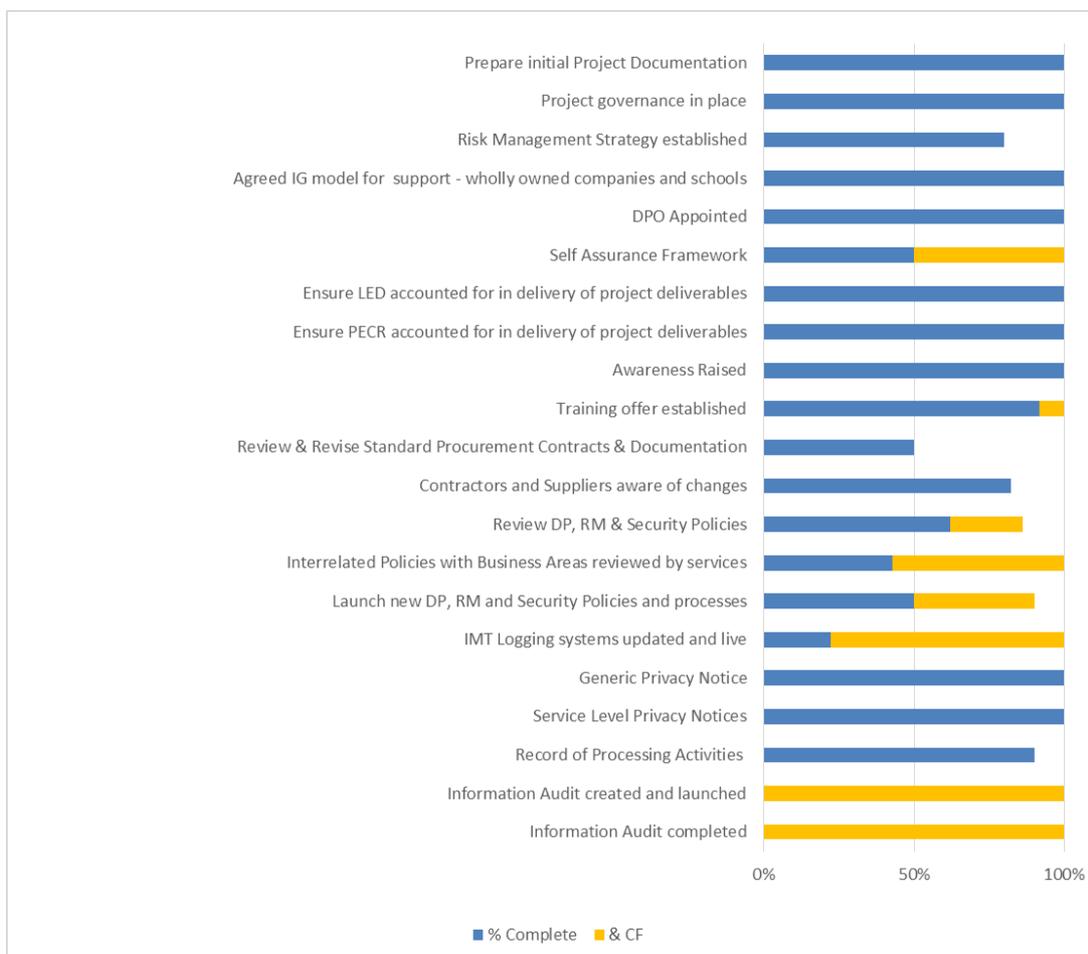
19   **Background Papers**

19.1   None

20   **Appendices**

- Appendix 1 – Phase 1 Plan progress
- Appendix 2 – Phase 2 Council Plan

Phase 1 Plan progress

Illustration of Phase 1 Council Plan–completed and carried forward items to Phase 2

Key:

IG   Information Governance
DPO   Data Protection Officer
LED   Law Enforcement Directive
PECR Privacy & Electronic Communications Regulations
DP   Data Protection
RM   Records Management
IMT   Information Management Team

Phase 2 Council Plan

Overview of key elements of Council Phase 2 plan are set out below and accompanied by a high level milestone BRAG rating.

Phase 2 of the plan builds on the success of Phase 1 plan and integral to the plan is the delivery of the agreed collaborative approach with MioCare Group CIC, the Unity Partnership and Schools. It has the following elements:

Self Assurance Framework

The intention is to develop a self–policing framework in order to provide initially high level assurances/action plans, and as time progresses involve services in reviewing specific activities. See Milestones 1 and 2.

Training and Awareness

The implementation of a data protection e-learning module has provided resources for staff not just to make them aware of the changes, but also provides a refresher source of training and for new staff at induction. Milestone 4 requires staff to be suitably trained and there will be additional e-learning modules introduced specifically in relation to cyber security and data sharing.

Further e-learning modules are planned to be developed over the coming year.

Data Protection Policies

Work continues to supplement the existing suite of policies and guidance in line with best practice and to incorporate the requirements of the Law Enforcement Directive.

Milestones 5, 6, 7, 10, 11 and 12 all relate to policy development and implementation. In summary, both the Data Protection Policy and Individual Rights Policy have been updated to incorporate the Law Enforcement Directive Policy. There is more action required to revise/create specific policies in relation to data subject access, data sharing and Privacy Impact Assessment (PIAs) together with Freedom of Information (FOI) policy reviews.

Records of Processing Activities (ROPA)

Work continues to develop a comprehensive ROPA and to establish an effective way going forward as to review and maintenance. With regard to Milestones 8 and 14, a review of the current ROPA is underway and the review of future form needs to consider whether or not an information audit would enable a comprehensive information asset register and ROPA.

Information Governance Logging Systems Development

The existing systems facilitate request and breach management, i.e., tracking and performance management. These are being reviewed to update the systems in relation to changes in legislation, i.e., terminology, timelines, reporting etc. See Milestone 13.

Delivery of Continuing Support to Key Partners

The schools plan is focused on providing model policies, training and a self-assurance framework to assist schools in demonstrating compliance and developing action plans. Advice is provided as required on a range of issues.

The Unity Partnership and MioCare Group CIC plans are similar in that they are focused on assisting them to develop policies, ROPA's, privacy notices, the facilitation of training and guidance.

The overall assessment of progress on Phase 2 is detailed in the Table below:

#	High Level Milestone	BRAG
1	Project Governance	A
2	Establish Self Assurance framework	G
3	Public awareness	B
4	Staff suitably trained	G
5	DP Policies in place	G
6	Data Protection embedded in service processes	A
7	DP Policy supplemental	G
8	Up to date ROPA	G
9	Up to date Privacy Notices	G
10	Special Data Appropriate policy	A
11	Law Enforcement Directive Policy	G
12	FOI	G
13	Effective Data protection logging systems	A
14	Information Asset Register/alternative ROPA	G

Plans are in place to progress the above with a view to moving any Amber related activities to Green.