



## Report of the Cabinet Member for Service Transformation & Business Operations

Council – 24 May 2018

### General Data Protection Regulations (GDPR) – Data Protection Policy

<b>Purpose:</b>	To agree and adopt the Council's revised Data Protection Policy
<b>Policy Framework:</b>	Legislative requirement under the Data Protection Act 1998 and European General Data Protection Regulation (2016/679)
<b>Consultation:</b>	Access to Services, Finance and Legal
<b>Recommendation(s):</b>	It is recommended that Council: 1) Adopts the revised Data Protection Policy
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#### 1. Introduction

- 1.1 This report presents the Council's Data Protection Policy for adoption by Council which replaces the Council's previous Human Resources and Data Protection Policy. The Data Protection Policy is attached at Appendix A.

#### 2. Background

- 2.1 The European General Data Protection Regulation (GDPR) was first formulated by the EU in 2009, the proposal was published in 2012, adopted by the European Parliament in April 2016 and the final text

published in May 2016. We are now coming to the end of a two year preparation period after which the GDPR will be fully enforceable on 25 May 2018. The General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) covers the areas of both data protection and information security and is intended to strengthen and unify data protection for individuals.

- 2.2 Many of the GDPR's principles are the same as those in the current Data Protection Act 1998. As Swansea Council is already complying with the current law then most of the current approach to compliance will remain valid under the GDPR and can be the starting point to build from. However, there are new elements to GDPR and significant enhancements to citizens' rights, so the council will have to make some changes to our public face, amend and improve our recording of working practices where we collect personal data.
- 2.3 As a result of the GDPR, the Data Protection Act 1998 and its subordinate legislation will be replaced by a new legal framework. This means that Council policies, forms and websites that make reference to the old legislation will be out of date when implementation of the new legal framework takes place in May. It is therefore necessary to have in place a corporate policy that accurately reflects the legal position.

### **3. Overview of the Data Protection Policy**

- 3.1 Swansea Council needs to collect and use certain types of information about people with whom it deals in order to carry out its everyday business and fulfil its constitutional functions and objectives. This personal information whether in print, on computer or recorded on other material must be collected, held and used in accordance with the data protection principles. The adoption of this Data Protection Policy will make clear how Swansea Council will seek to meet its statutory obligations and how staff will be expected to handle personal data after GDPR comes into force.
- 3.2 The Data Protection Policy sets out:
  - 1. Purpose of the Policy - Swansea Council ('the Council') holds personal data about its citizens, employees, suppliers, job applicants and other individuals for a variety of business purposes, including its public task as a local authority, its status as a major local employer and as a commissioner of services.
  - 2. Scope of the Policy - This policy applies to all staff and elected Members who have access to Council records and information in whatever format in the course of their work.
  - 3. Definitions – There are general definitions relevant to this policy in this section.

4. Context of the Policy - This policy complements and sits alongside other related Council policies.

5. Principles of the Policy - The Council will implement technical and organisational measures to manifest that it has considered and integrated data protection into all its processing activities, in accordance with the applicable data protection principles, laws and rights of individuals.

6. Responsibilities for Implementing the Policy – Heads of Service and Operational Officers will take responsibility for ensuring that staff adhere to this policy. The Council will create the role of Data Protection Officer to monitor the Council's adherence to this Policy and enforce measures on departments to bring the Council into compliance with it where necessary.

7. External advisory standards affecting this Policy - This policy is informed by the ICO's guidance on the implementation of GDPR. The guidance can be found at <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

8. Monitoring of compliance - The Council should follow this policy for all relevant processes and procedures in its operational activities.

9. Policy Review - The Council will keep this policy under continuous review, amending it when necessary and formally reviewing it at intervals of not more than five years.

#### **4. Equality and Engagement Implications**

4.1 The Equality Impact Assessment (EIA) process has been applied to the report's subject and there are no equality implications. The EIA screening is attached as Appendix B.

4.2 An EIA Screening Form has been completed with the agreed outcome that a full EIA report was not required:

The new Data Protection Policy is an internal document created for staff and elected Members to follow. While the Policy describes new citizens' rights and obligations on the Council, these are changes enforced by the legislation and not by the Policy, i.e. the Council has no choice whether to adopt the Policy or not if it intends to stay within the law.

The effect of the Policy will be beneficial for citizens (for example, the need to explain data protection in a child-friendly as well as a general version), however as stated above these benefits derive from the new legislation not the policy.

With regard to the bilingualism of the initiative, all public information and data collection forms which are created will be bilingual and a number of the staff assisting the public in understanding their new rights will be Welsh-speakers (as currently is the case with all public interaction), as part

of the interface between the Council and the public which is designed to be no less favourable to those who opt to receive a service in Welsh.

## **5. Financial Implications**

- 5.1 There are no direct financial implications associated with consideration of adoption of the revised Data Protection Policy .
- 5.2 Adoption of the revised Policy is designed to reflect changes to the wider legislative provisions and ensure compliance with legal and governance obligations and mitigate the risks of financial penalties for non-compliance. There is no budgetary provision for the cost of any financial penalties or sanctions if we were to not meet our obligations under GDPR.
- 5.3 There is a requirement to appoint/designate a Data Protection Officer at a suitable level and this will need to be accommodated from within existing overall budgetary provision.

## **6. Legal Implications**

- 6.1 There are no legal implications associated with this report other than those already referred to.
- 6.2 The Data Protection Policy has to be approved by council under Article 4 of the Constitution.

### **Background Papers:**

None

### **Appendices:**

- Appendix A Draft Data Protection Policy
- Appendix B Equality Impact Assessment Screening Form