

PERTH AND KINROSS COUNCIL

Strategic Policy & Resources Committee

28 November 2018

DATA PROTECTION POLICY

Report by Head of Legal and Governance Services (Report No. 18/389)

PURPOSE OF REPORT

This report presents a revised Data Protection Policy for approval. This revised policy takes account of the new legal requirements introduced by the General Data Protection Regulation ("GDPR") and the Data Protection Act 2018 ("the DPA").

1. BACKGROUND / MAIN ISSUES

- 1.1 GDPR and the DPA came into force on 25 May 2018 and, between them, affect all of the processing of personal data undertaken by the Council.
- 1.2 The GDPR introduces a new data protection principle, known as the "accountability principle". This requires the Council to be able to evidence its compliance with the data protection principles and an appropriate Data Protection policy will form part of that.
- 1.3 The DPA also sets out specific conditions for the processing of personal data related to special category data or law enforcement / criminal offences. One of the conditions is that there must be an appropriate policy document in place explaining the organisation's compliance with the legislation.
- 1.4 The revised policy is intended to satisfy these requirements.

2. SIGNIFICANT CHANGES

- 2.1 Whilst the revised policy reiterates much of the previous policy statement in terms of scope, roles and responsibilities, data sharing and impact assessments, the following are specific additions to comply with the new legislation;-
 - statement of policy
 - specification of role of elected members as data controllers
 - new requirements as regards contracts
 - role and responsibilities of the new statutory Data Protection Officer
- 2.2 Furthermore, the following sections contained within the previous data protection policy have been removed from this revised policy on the basis that they are either no longer relevant in terms of the new legislation, or are the subject of separate specific guidance;-
 - Training
 - Notification to the Information Commissioner's Office

- Subject Access
- Direct Marketing

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 To ensure compliance with data protection legislation, the Council must have in place an up to date Policy.
- 3.2 This revised Policy encompasses the changes introduced by the implementation of the GDPR.
- 3.3 The Committee is asked to approve the policy.

Author(s)

Name	Designation	Contact Details
Donald Henderson	Data Protection Officer	01738 475000

Approved

Name	Designation	Date
Jim Valentine	Depute Chief Executive (Chief Operating Officer)	1 November 2018

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	N
Corporate Plan	N
Resource Implications	
Financial	N
Workforce	N
Asset Management (land, property, IST)	N
Assessments	
Equality Impact Assessment	N
Strategic Environmental Assessment	N
Sustainability (community, economic, environmental)	N
Legal and Governance	N
Risk	N
Consultation	
Internal	N
External	N
Communication	
Communications Plan	Y

1. Strategic Implications

Community Plan/Single Outcome Agreement

1.1 Not applicable.

Corporate Plan

1.2 Not applicable.

2. Resource Implications

Financial

2.1 Not applicable.

Workforce

2.2 Not applicable.

Asset Management (land, property, IT)

2.3 Not applicable.

3. Assessments

Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties. The proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) and assessed as not relevant for the purposes of EqIA.

Strategic Environmental Assessment

- 3.2 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals. The proposals have been considered under the Act and no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

Sustainability

- 3.3 Not applicable.

Legal and Governance

- 3.4 Not applicable.

Risk

Not applicable.

4. Consultation

Internal

- 4.1 This policy has been considered by the Policy & Governance Group which includes representatives of all Services.

External

- 4.2 Not applicable.

5. Communication

- 5.1 Once approved, the Policy will be published on the Council's Intranet along with an internal news bulletin and will be published on the Council's website.

2. BACKGROUND PAPERS

None.

3. APPENDICES

Appendix 1 - Proposed Data Protection Policy