

# Audit and Governance Committee

**Dorset County Council**



Date of Meeting	20 January 2017
Officer	Head of Organisational Development
<b>Subject of Report</b>	<b>Information Governance – Data Protection Update</b>
Executive Summary	This report informs Members of two major developments relating to data protection within DCC. The first development is that a Data Protection Audit by the Information Commissioner’s Office is to take place on 7 <sup>th</sup> to 9 <sup>th</sup> March 2017. The report seeks to provide members with assurance about the steps being taken to prepare for the Audit and invites their comments. Secondly, it highlights that the Data Protection Act 1998 is to be replaced on 25 <sup>th</sup> May 2018 by either a new EU Regulation, the General Data Protection Regulation (GDPR) or an Act of Parliament, which will mirror all the main provisions of the GDPR. This report is for information only and does not require a decision.
Impact Assessment:  <i>Please refer to the <a href="#">protocol</a> for writing reports.</i>	No EQIA has been completed on this report as it does not propose any new policy or procedure impacting upon either service users or staff. Proposed changes in any action plan emerging from the audit may result in changes and these would be subject to screening and any necessary assessment of impacts at that time.
	Use of Evidence:
	Budget: This report is for assurance only and does not have any immediate budgetary implications. Further reports will address the outcome of the ICO audit and the actions required to ensure compliance with the new legislation and these will set out budgetary implications of any actions required.
	Risk Assessment: This report is for information only and does not have any risk implications.

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	Other Implications: No other implications
Recommendation	That members consider and comment upon the preparations for the Data Protection Audit by the Information Commissioner's Office and the impending changes in data protection legislation.
Reason for Recommendation	Preparations for the forthcoming data protection audit and the new legislation have identified the need to ensure information governance updates are regularly given to both Members and CLT.  As part of the ICO Audit, the auditors will be speaking to members of staff and may wish to speak to Elected Members.
Appendices	None
Background Papers	None
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### 1. Information Commissioner's Office.

1.1 The Information Commissioner's Office (ICO) is responsible for enforcing and promoting compliance with the Data Protection Act 1998 (DPA). The ICO has identified that audit has a key role to play in educating and assisting organisations to meet their legal obligations. As such, the ICO undertakes a programme of consensual audits to provide practical advice and recommendations to improve the way local authorities deal with information rights issues.

### 2. Data Protection Audit of DCC.

2.1 DCC accepted the offer of a consensual data protection audit, which will take place over three days, 7th to 9th of March 2017. The audit team will consist of three Auditors who will look at three specific areas. These are:

- data protection governance;
- subject access requests i.e. the process by which an individual can access the information held about them; and
- records management, both paper and electronic.

2.2 The Auditors will typically assess DCC's procedures, systems, records and activities in order to:

- ensure the appropriate policies and procedures are in place;
- verify that those policies and procedures are being followed;
- test the controls in place;
- detect any inherent potential for data breaches; and
- identify any necessary changes in controls, policies, procedure and practices.

- 2.3 The benefits of the consensual audit include:
- demonstrating commitment to, and recognition of, the importance of data protection;
  - the opportunity to use the ICO's resources at no expense;
  - independent assurance of data protection policies and practices;
  - identification of data protection risks and practical, pragmatic, organisational specific recommendations;
  - the sharing of knowledge with trained, experienced, qualified staff and an improved working relationship with the ICO, and
  - assistance in ensuring we achieve legal compliance with the new EU General Data Protection Regulation (GDPR), which comes into force on 25<sup>th</sup> May 2018.
3. ICO audit outcomes:
- 3.1 There are known areas where current practice is failing to reach the required standard. This is particularly true in respect of our handling of subject access requests, which are increasingly taking longer than the statutory 40-day time limit for compliance. The audit provides us with an opportunity to test how well we handle and safeguard the data we hold and with the support of the ICO, to improve our practice.
- 3.2 The Director of Adult Services, supported by Governance and Assurance Manager, the Data Protection Officer and a cross directorate group is leading the County Council preparations for the audit.
- 3.3 This group have drawn up a comprehensive action plan to assess and address any areas which require improvement and includes:
- staff and public awareness campaign;
  - establishing a set of key performance indicators;
  - an intensive training program to increase the number of staff having received data protection training;
  - checks on how current staff data protection training is to become part of the annual PDR process;
  - a review and where necessary, an update of all relevant policies, guidance notes and standard contractual / procurement clauses;
  - regular information governance updates to senior management and members.

The purpose of submitting this report to the Audit and Governance Committee is to fulfil the latter of the above actions.

4. Replacement of the Data Protection Act 1998.
- 4.1 The EU has passed the General Data Protection Regulation (GDPR), which will come into force on 25<sup>th</sup> May 2018. All the indications are that the Brexit process will not be complete before this date and therefore, the UK will be subject to the GDPR.
- 4.2 Even if the Brexit negotiations were to be completed before this date, any free trade deal will almost certainly result in the UK being directly subject to the GDPR. Even if no free trade deal is agreed, The Information Commissioner and the Government have both confirmed that there would be a need to either to adopt all the main principles of the GDPR and this could be achieved by incorporating them into a new Act of Parliament.

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- 4.3 The Data Protection Officer is presently studying the GDPR and the implications for DCC and will produce a report in due course. It is likely that the ICO audit will provide extremely useful advice and guidance on the measures necessary to comply with the GDPR.
- 4.4 It is already apparent that there will be resource implications in preparing for compliance with the GDPR and these will be highlighted in a more detailed report which will identify the actions required to ensure compliance.

**Jonathan Mair**  
**Head of Organisational Development**  
January 2017