

TEWKESBURY BOROUGH COUNCIL

Report to:	Audit Committee
Date of Meeting:	25 September 2013
Subject:	Review of Data Protection Policy
Report of:	Sara Freckleton, Borough Solicitor
Corporate Lead:	Sara Freckleton, Borough Solicitor
Lead Member:	Councillor Mrs J M Perez
Number of Appendices:	2

Executive Summary:

To ask Audit Committee to consider and to recommend to Executive Committee any changes to the revised Data Protection Policy (Appendix 1) and to note the Personal Data Investigation Guidance Notes (Appendix 2) which will assist officers to investigate potential breaches of the Data Protection Act 1998 (DPA).

Recommendation:

- 1. To CONSIDER the revised Data Protection Policy set out at Appendix 1 and to RECOMMEND TO THE EXECUTIVE COMMITTEE that it be ADOPTED.**
- 2. To CONSIDER the Personal Data Investigation Guidance Notes set out at Appendix 2.**

Reasons for Recommendation:

It is good practice to review and revise existing policies to take into account recent developments. The Data Protection Policy set out at Appendix 1 has been updated and the Personal Data Investigation Guidance Notes have been prepared to assist Officers to thoroughly investigate potential breaches of the Data Protection Act 1998 (DPA).

Resource Implications:

None

Legal Implications:

These are set out in the main body of the report

Risk Management Implications:

Having a Policy and Procedural Guidance Notes helps to reduce the risk of breaches of the DPA.

Performance Management Follow-up:

N/A

Environmental Implications:

None

1.0 INTRODUCTION/BACKGROUND

1.1 The current Data Protection Policy was adopted by the Council in 2002.

2.0 KEY ISSUES

2.1 The DPA legislation is complex and involves the use of technical terminology and comprehensive definitions. The current Policy focuses on the eight DPA principles and adopts 10 Corporate Data Protection Policy Statements. Having reviewed the Data Protection Policy it is considered that it is still 'fit for purpose' and that only minor changes are required to update it. The updated Policy is set out in Appendix 1.

2.2 Since the adoption of the current Policy in 2002 the Information Commissioner has introduced robust monitoring processes and has increased the level of enforcement against local authorities. In view of these changes it is considered prudent to develop guidance notes for officers to assist them in the event of a potential breach of the DPA. The proposed Personal Data Investigation Guidance Notes are set out in Appendix 2.

2.3 Members are advised that over the last 3 years there has been 1 formal complaint to the Information Commissioner. The complaint related to the manner in which personal data was made available to the complainant/data subject. The data subject requested copies of her personal data. The Council decided, given the quantity of data required to be disclosed, to make her personal data files available at the Council offices rather than copying the contents of each file (much of which had been provided by email). The Information Commissioner found against the Council on the basis that the data subject's request was reasonable. The personal data was accordingly copied and provided to the data subject as required by the Information Commissioner's decision.

2.4 During October and November 2013 One Legal will offer training on the Data Protection Policy, the DPA and the Guidance Notes to staff nominated by Group Managers.

3.0 OTHER OPTIONS CONSIDERED

3.1 None

4.0 CONSULTATION

4.1 None

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 None

6.0 RESOURCE IMPLICATIONS (Human/Property)

6.1 There are no direct financial implications arising out of this report.

7.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

7.1 None

8.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

8.1 Ensuring that the Council complies with the DPA will assist with the reduction of DPA breaches.

9.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

9.1 None

Background Papers: The Data Protection Act 1998

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Appendices: Appendix 1 – Data Protection Policy
Appendix 2 - Personal Data Investigation Guidance Notes